

11-3-2008

State v. Martin Clerk's Record v. 1 Dckt. 35549

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LAW CLERK

SUPREME COURT NO. 35549

IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

COPY

STATE OF IDAHO

PLAINTIFF and

RESPONDENT

-VS-

CHRISTOPHER P. MARTIN

DEFENDANT and

APPELLANT

*Appealed from the District Court of the Fourth Judicial District of the
State of Idaho, in and for Valley County.*

Honorable Thomas F. Neville, District Judge, Presiding

JONATHON D. HALLIN

Attorney for Appellant

IDAHO ATTORNEY GENERAL'S OFFICE

Attorney for Respondent

Filed this _____ day of _____, 20____

FILED - COPY	
NOV - 3 2008	
By:	
Supreme Court	Court of Appeals
Entered on ATS by:	

Clerk

Deputy

35549

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff/Appellant,

-VS-

CHRISTOPHER P. MARTIN,

Defendant/Appellant.

SUPREME COURT NO. 35549

District Court No. CR-2006-956*C

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District of the
State of Idaho, in and for the County of Valley.

Honorable Thomas F. Neville, District Judge
Presiding

Jonathon D. Hallin
Valley County Public Defender
P. O. Box 1067
McCall, ID 83638

Attorney General's Office
Criminal Division
P. O. Box 83720
Boise, ID 83720-0101

ATTORNEY FOR APPELLATE

ATTORNEY FOR RESPONDENT

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IDAHO STATE POLICE

IDAHO UNIFORM CITATION

IN THE DISTRICT COURT OF THE 11th JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF Valley
STATE OF IDAHO

COMPLAINT AND SUMMONS

☐ Infraction Citation

OR

☒ Misdemeanor Citation☐ Accident Involvedvs. Martin

Last Name

Christopher

First Name

A

Middle Initial

USDOT TK

☒ Operator ☐ Class A ☐ Class B ☐ Class C ☐ Class D ☒ Other Verbal ID☐ GVWR 26001 + ☐ 8 + Persons ☐ Placard Hazardous Materials DR# ME01126Home Address 123 Mores Creek Rim Boise, ID 83716

Company Name _____ Phone # _____

THE UNDERSIGNED OFFICER (PARTY) HEREBY CERTIFIES AND SAYS:

I certify I have reasonable grounds, and believe the above-named defendant,

DL or SS# G B 15 93526 State ID Sex: ☒ M ☐ FHeight 5'11" Wt. 180 Hair BRO Eyes HAZ DOB 6-12-83Veh. Lic # GB208T State ID Yr. of Vehicle 92 Make FordModel TK Color WHI/GRYDid commit the following act(s) on April 24 20 06 at 1203 o'clock P M.Vio. #1 Driving w/o Privileges 18-8001 Code Section(second or more) 3rd offense in 5 yrs

Vio. #2 _____ Code Section

Location _____

Hwy NB SH 53 M. 105.5 Valley County, Idaho.Date 4/24/06 Officer/Party TRE. SHARBONDY Serial #/Address 0313430 Dept. ISP

Date _____ Witnessing Officer _____ Serial #/Address _____ Dept. _____

THE STATE OF IDAHO TO THE ABOVE NAMED DEFENDANT

You are hereby summoned to appear before the Clerk of the Magistrate's Division of the

District Court of Valley County _____ Idaho,

located at _____ on the _____

day of _____, 20 _____

20 _____ and on or before _____

at _____ o'clock _____ M

I acknowledge receipt of this summons and I promise to appear at the time indicated.

In Custody APR 27 2006

Defendant's Signature

I hereby certify service upon the defendant personally on the 24th day of April, 20 06

Case No. _____ Inst. No. _____

Filed _____ A.M. _____ P.M.

NOTICE: See reverse side of your copy for PENALTY and COMPLIANCE instructions.

COURT COPY VIOLATION #1

1855871

MARTIN Christopher A

Defendant's Name:

Declaration and Affidavit of Probable Cause

Department Report Number
B06001126

Arrestee's Information

Arrestee's Name - Last, First, Middle Martin, Christopher Page	Social Security Number 519174610	Driver's License Number GB159352G	State ID	Date Of Birth 6-12-1983
Physical Address - Street, apt.#, city, State 123 Mores Creek Rim Boise, ID 83716	Mailing Address - P.O. Box, City, State, Zip Code	Telephone Number NA	Telephone Number NA	

Arrest Information

Date and Time Of Offense 4/24/06 1147	Date and Time Of Arrest 4/24/06 1203	Arrest Location NB SH55 at Milepost 105.5	Arresting Agency Idaho State Police
Vehicle Impounded No	Vehicle Location and Disposition	Vehicle Clear to Release	Any Arrested Property Seized APR 27 2006
		Authorized to be put in Jail by: Trooper Sherbondy	Criminal History Attached Yes

Charges

Arrest Charges	Code Section	Felony	Misdemeanor	Resident	Warrant Number	Citation Number
Driving Without Privileges (Second or More)	18-8001		X	X		1185871

Declaration of Probable Cause

On April 24, 2006, at approximately 1147 hours, I, Idaho State Police Trooper Mike Sherbondy, was traveling southbound on SH55 near milepost 105 in Valley County, Idaho. I observed a white Ford Pickup, Idaho License Plate 6B268T, with the front license plate hanging at near a 30 degree angle with one bolt missing. I stopped the vehicle and explained the reason for the stop. I identified the driver of the vehicle verbally as Christopher P. MARTIN. MARTIN was placed under arrest for Driving Without Privileges (Second or More), I.C. 18-8001. MARTIN was held for the charge listed above at the Valley County Jail.

Affidavit in Support of Probable Cause

<p>State of Idaho ss. County of Valley</p> <p>I, Trooper Mike Sherbondy, being first duly sworn, state as follows:</p> <p>I am the arresting officer or one of the officers involved in the arrest of the above-named arrestee and in such capacity state that I have personal knowledge of the facts upon which the arrestee was placed under arrest.</p> <p>I offer this affidavit in support of a finding of probable cause for the arrest of the arrestee.</p> <p>Above is my Probable Cause Declaration which was prepared in this manner which I believe to be true and correct to the best of my belief and knowledge and said declaration is incorporated herein by reference.</p> <p><i>Michael Sherbondy</i> Officer</p>	<p>SUBSCRIBE and SWORN to me this 24th day of April, 2006.</p> <p><i>Rachel J. Gray</i> NOTARY PUBLIC Notary Public for the State of Idaho Residing in Adams County, Idaho My commission Expires: 12-28-2011</p>
--	--

COURT USE ONLY

On the basis of 1. The Officer's Declaration, 2. Reports Reviewed, I hereby determine that There 1. IS 2. IS NOT Probable Cause to believe that the arrestee has committed a crime.	Date	Signature
---	------	-----------

Session: BOOMER050906
Session Date: 2006/05/09
Judge: Boomer, Henry
Reporter:

Division:
Session Time: 08:47

Courtroom: CR201

Clerk(s):
Thompson, Jayne

State Attorney(s):
Brockmann, Carol
Williams, Matthew

Public Defender(s):
Wilcox, Todd

Prob. Officer(s):

Court interpreter(s):

Case ID: 0004

Case number: CR2006-956
Plaintiff:
Plaintiff Attorney:
Defendant: Martin, Christopher
Co-Defendant(s):
Pers. Attorney:
State Attorney:
Public Defender:

2006/05/09

09:51:33 - Operator
Recording:
09:51:33 - New case
Martin, Christopher
09:51:37 - Judge: Boomer, Henry
Calls case, advised of charges and possible penalties.
09:52:07 - State Attorney:
Motion to amend to DWP 3rd.
09:52:16 - Judge: Boomer, Henry
Do you plan to hire attorney?
09:53:07 - Defendant: Martin, Christopher
Applied for PD
09:53:12 - Judge: Boomer, Henry
Reviews PD application, will appoint PD
09:55:43 - Judge: Boomer, Henry

Will set for pretrial, pay 32.00 per month commencing 6/9/06 pretrial,
09:56:54 - Judge: Boomer, Henry
6/19/06 at 11:00 a.m.
09:58:49 - Operator
Stop recording:

IN THE DISTRICT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF VALLEY
MAGISTRATE DIVISION

LELAND J. THOMPSON
BY *J. Thompson*

MAY - 3 2006

STATEMENT OF DEFENDANT'S RIGHTS—MISDEMEANORS

Case No. _____

1. You have been charged with one or more misdemeanors. A misdemeanor is a crime, which can result in a term of imprisonment in the county jail. You are entitled to a copy of the complaint(s) filed against you. If you cannot read, the complaint(s) will be read to you. The complaint itself is not evidence of your guilt. You have the right to remain silent. Any statement you make can be used against you. Your silence will not be used against you.
2. If you are in custody, you have the right to reasonable bail to ensure your appearance in court and to release you from custody. You have the right to have an attorney represent you at all stages of these proceedings. If you are poor and unable to afford counsel and if the charge for which you are appearing will carry jail as a penalty you may apply to the court for appointment of counsel at public expense. If you wish to have a court appointed please make request today and the judge will decide if you qualify. You may be required to repay the county for any services of the public defender.
3. You have the right to a trial before a jury or you may have a court trial before a judge. At the trial, the prosecution has to prove your guilt beyond a reasonable doubt. You have the right to confront and cross-examine (ask questions of) any witness who testifies against you, and to subpoena witnesses on your own behalf without expense to you. **You have the right to appeal any conviction or sentence to the District Court within 42 days of the date they are imposed.**
4. You may enter a plea of guilty or not guilty at this time or request a continuance in order to consult with your attorney. If you plead guilty you waive your right against self-incrimination, your right to a trial by jury and your right to confront the witnesses against you.
5. If you plead **NOT GUILTY**; no comments should be made about the case and the court will set a trial date and notify you or your attorney of that date.
6. If you are pleading guilty to a general misdemeanor (not a D.U.I. or Driving without Privileges), the maximum penalty is generally a fine of up to \$1000 and up to six (6) months in jail. There are many exceptions, and if you are subject to a different penalty the court will advise you. If you plead guilty to a D.U.I. or Driving without Privileges charge, the minimum and maximum penalties for those charges are different and the court will advise you of this.
7. If you plead guilty or are found guilty of a traffic offense, a record of the conviction will be sent to the Department of Transportation and becomes part of your driving record. There is a traffic violation point system and the accumulation of points may lead to a suspension of your driving privileges if the court has not already done so.
8. If you plead guilty to a D.U.I. charge, you will be required to undergo, at your own expense and prior to sentencing, an alcohol evaluation that will be considered by the court in determining the appropriate sentence.
9. At the sentencing you will be given the opportunity to make a statement on your own behalf. In addition to any fine imposed by the court upon a conviction, you will be required to pay court costs.

I have read this statement, or it has been read to me, and I fully understand its contents.
CR-2006-0000956-C

Chris Martin
Christopher P. Martin

10th Judicial District Court, State of Idaho
In and For the County of Valley
219 North Main
Cascade, Idaho 83611

STATE OF IDAHO
Plaintiff,

vs.

Christopher P. Martin
123 Mores Creek Rim
Boise, ID 83716

Defendant.

DOB: [REDACTED]
DL or SSN: [REDACTED]

LELAND C. HENNINGSON
By J. Thompson

MAY - 5 2006

Citation No:

1185871
Case No.

Case No: CR-2006-0000956-C

**ORDER APPOINTING PUBLIC DEFENDER
AND ORDER FOR DISCOVERY**

The Court being fully advised as to the application of Christopher P. Martin, and it appearing to be a proper case,
NOW, THEREFORE, IT IS ORDERED that an attorney be appointed through the:

Valley County Public Defender
P.O. Box 947
McCall, Idaho 83638
(208)634-7118

Defendant shall contact the law firm within 72 hours to schedule appointment. Defendant shall provide his lawyer with his current address and telephone, contact and notify his lawyer of any address and/or telephone changes. **It is the defendant's responsibility to obtain his mail and to maintain contact with his lawyer.**

The Defendant is further advised that he/she may be required to reimburse the Court for all or part of the cost of court appointed counsel.

☒ Defendant shall pay \$250.00 plus additional \$300.00 if Court trial and additional \$700.00 if jury trial. Pay at the rate of \$ 32.00 per month, commencing 6/9/06. Mail payments to:

Valley County Courthouse
P.O. Box 1350
Cascade, Idaho 83611

_____ Reimbursement To be determined.

The Prosecuting Attorney shall disclose the defense attorney the disclosure of evidence and material required by I.C.R. Rule 16. This information shall be disclosed within 14 days of service of this Order and shall be made without written request by defense attorney.

Date: 5/9/06

Henry R. Boone
Judge

Defendant acknowledges receipt of the foregoing Order and agrees to pay as ordered.

Chris Martin
Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND
FOR THE COUNTY OF VALLEY

THE STATE OF IDAHO

Plaintiff,

-vs-

Christopher P. Martin

Defendant.

Case No. or Citation No.

CR-2006-0000956-C

ORDER SETTING HEARING
OR TRIAL

Case No. _____ Ins. _____
Filed _____ A.M. _____

LELAND C. HEINRICH, ATTORNEY
By *[Signature]*
MAY - 3 2006

The above named defendant is ordered to appear on the following dates and times:

DIST. COURT ARRN: _____

PRETRIAL CONFERENCE: _____

June 19, 2006 11:00 am

COURT TRIAL: _____

SENTENCING: _____

OTHER: _____

If you are being sentenced for driving under the influence of alcohol or drugs, minor in possession of alcohol or drugs, or otherwise ordered, you must immediately obtain an evaluation.

If you are being sentenced for domestic battery or assault, you must immediately obtain a domestic violence evaluation.

*Fine and court cost are due the day of sentencing. Jail terms being the day of sentencing.

The defendant's personal appearance is required at the scheduled hearing unless otherwise approved by the Court.

☒ Cascade Courthouse, 219 N. Main St., Cascade, Idaho.

_____ McCall Court Annex, 550 Deinhard Ln., McCall, Idaho.

Dated this 9 day of May, 2006

[Signature]
Magistrate Judge

Defendant acknowledges receipt of the foregoing Order and understands that in the event he fails to appear as ordered, a warrant for his arrest may be issued by the Court.

[Signature]
Defendant

cc: def, PA, DT

Session: BOOMER061906
Session Date: 2006/06/19
Judge: Boomer, Henry
Reporter:

Division:
Session Time: 08:41

Courtroom: CR201

Clerk(s):
Thompson, Jayne

State Attorneys:
Williams, Matthew
Brockmann, Carol

Public Defender(s):
Wilcox, Todd

Prob. Officer(s):

Court interpreter(s):

Case ID: 0011

Case Number: CR2006-956
Plaintiff:
Plaintiff Attorney:
Defendant: Martin, Christopher
Co-Defendant(s):
Pers. Attorney:
State Attorney:
Public Defender:

2006/06/19

11:26:49 - Operator
Recording:
11:26:49 - New case
Martin, Christopher
11:26:56 - Judge: Boomer, Henry
Calls case,
11:27:05 - Public Defender:
Would like continuance,
11:27:12 - Judge: Boomer, Henry
8/10/06, 11:00 a.m.
11:30:17 - Defendant: Martin, Christopher
POB 170 A 62, Boise, I D 83717 941-9535
11:31:55 - Operator
Stop recording:

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND
FOR THE COUNTY OF VALLEY

THE STATE OF IDAHO

Plaintiff,

-vs-

Christopher P. Martin
Defendant.

Case No. or Citation No.

CR-2006-0000956-C

ORDER SETTING HEARING
OR TRIAL

LELAND G. HEINRICH, CLERK
By *J. Thompson*

JUN 19 2006

Case No. _____ Inst. No. _____
Filed _____ A.M. _____ P.M. _____

The above named defendant is ordered to appear on the following dates and times:

DIST. COURT ARRN: _____

PRETRIAL CONFERENCE: _____

COURT TRIAL: _____

SENTENCING: July 31, 2006 at 11:00

OTHER: _____

If you are being sentenced for driving under the influence of alcohol or drugs, minor in possession of alcohol or drugs, or otherwise ordered, you must immediately obtain an evaluation.

If you are being sentenced for domestic battery or assault, you must immediately obtain a domestic violence evaluation.

*Fine and court cost are due the day of sentencing. Jail terms being the day of sentencing.

The defendant's personal appearance is required at the scheduled hearing unless otherwise approved by the Court.

____ Cascade Courthouse, 219 N. Main St., Cascade, Idaho.

____ McCall Court Annex, 550 Deinhard Ln., McCall, Idaho.

Dated this 19 day of June, 20 06

Hay R. Boomer
Magistrate Judge

Defendant acknowledges receipt of the foregoing Order and understands that in the event he fails to appear as ordered, a warrant for his arrest may be issued by the Court.

Chris Martin
Defendant

ORIGINAL

LELAND G. HEINRICH, CLERK
By *[Signature]* Deputy

JUL 31 2006

Case No. _____ Inst. No. _____
Filed _____ A.M. _____ P.M.

JONATHON D. HALLIN
Wilcox & Hallin
Attorneys at Law
200 Park Street
P.O. Box 947
McCall, Idaho 83638
Telephone: (208) 634-7118
Facsimile: (208) 634-5880
wilcox.hallin@frontiernet.net
ISB # 7253

Attorneys for Defendant

vs. Joshua Ray
06-541 c

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

STATE OF IDAHO,	)	Case No. CR-2006-0000956-C
)	
Plaintiff,	)	MOTION TO SUPPRESS
)	
VS.)	
)	
CHRISTOPHER P. MARTIN,)	
)	
Defendant.)	

COMES NOW, the Defendant, CHRISTOPHER P. MARTIN, by and through his attorney of record, Jonathon D. Hallin, of the firm, Wilcox & Hallin, and moves this Honorable Court, pursuant to Idaho Criminal Rule 12(b)(3) for an Order to suppress all evidence from the vehicle stop, and seizure in the above entitled action for the following reasons:

- 1) Vehicular stop and seizure on 24 April 2006 was without sufficient cause; and

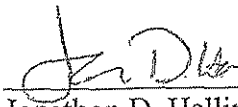
- a. Said seizure was in contravention of the 4th and 14th Amendments of the United States Constitution; and
- b. Said seizure was in contravention of Article I, Section 17 of the Idaho State Constitution;

That the fruits of the vehicle seizure, and all evidentiary matters, both testimonial and tangible, flowing from same are subject to exclusion and should be suppressed.

No evidentiary hearing is requested.

RESPECTFULLY REQUESTED this 31st day of July, 2006.

By:

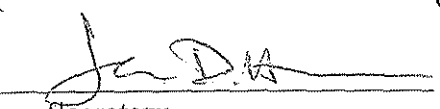

Jonathon D. Hallin, Esq of the Firm,
Attorneys for Defendant

CERTIFICATE OF MAILING

I hereby certify that on the 31st day of July, 2006, I caused a true and correct copy of the above and foregoing document was served by the method indicated below to the following persons:

- | | |
|---|------------------------------------|
| <input type="checkbox"/> U.S. Mail | Matthew C. Williams |
| <input type="checkbox"/> Facsimile | Valley County Prosecuting Attorney |
| <input checked="" type="checkbox"/> Hand Delivery | P.O. Box 1350 |
| <input type="checkbox"/> Box | Cascade, ID 83611 |

SIGNED:


Secretary

ORIGINAL
LELAND E. HEINRICH, CLERK
By *[Signature]* Deputy
JUL 31 2006

JONATHON D. HALLIN
Wilcox & Hallin
Attorneys at Law
200 Park Street
P.O. Box 947
McCall, Idaho 83638
Telephone: (208) 634-7118
Facsimile: (208) 634-5880
wilcox.hallin@frontiernet.net
ISB # 7253

Case No. _____ Inst. No. _____
Filed _____ A.M. _____ P.M.

Attorneys for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

STATE OF IDAHO,	)	Case No. CR-2006-0000956-C
)	
Plaintiff,	)	MEMORANDUM IN SUPPORT
	)	OF DEFENDANT'S MOTION
VS.	)	TO SUPPRESS
)	
CHRISTOPHER P. MARTIN,)	
)	
Defendant.)	

I. STATEMENT OF FACTS¹

II. STANDING²

¹ For the limited purpose of the Defendant's Motion to Suppress, the following facts as alleged in Trooper Sherbondy's Incident Report are stipulated to. The Defendant does not stipulate as to the veracity of said allegations. Consequently, the Defendant does not bind himself to said allegations in future court proceedings.

² After the recent illogical decision by the Court of Appeals in *State v. Hanson*, 132 P.3d 468 (2005), it has become necessary to assert standing at every level. In that case, the Court held "In the future, if the State successfully argues for the first time on appeal that the defendant did not show standing, we will not remand to give the defendant another opportunity to present evidence." *Id.* at 476-477.

“Even if a search is improper, only an individual with a privacy interest that was invaded by the search may obtain suppression of evidence found.” *State v. Hanson*, 132 P.3d 468, 473 (Ct. App. 2005); citing *State v. Foldesi*, 131 Idaho 778, 780 (Ct. App. 1998). “This is true because the Fourth Amendment protects people—not places against government intrusions, and the exclusion of evidence gathered in violation of the Fourth Amendment is a ‘means for making effective the protection of privacy.’” *Hanson*, 132 P.3d at 473; citing *Oliver v. United States*, 466 U.S. 170, 177 (1984); *Katz v. United States*, 389 U.S. 347, 361 (1967). “Toward this end, when a search is challenged, the burden is placed on the defendant to make a threshold showing that [they] had a legitimate expectation of privacy in the place of thing searched.” *Rawlings v. Kentucky*, 448 U.S. 98, 104 (1980); *State v. Peters*, 130 Idaho 960, 961-62 (Ct. App. 1997).

“Although a property interest in the thing searched is an important factor, ownership alone is not determinative in a standing analysis.” *Foldesi*, 131 Idaho at 780-81. “By the same token, Idaho courts have never held that mere status as the driver, standing alone is sufficient to give one a reasonable expectation of privacy in a vehicle.” *Id.*

III. STANDARD OF REVIEW

“At a suppression hearing, the power to assess the credibility of witnesses, resolve factual conflicts, weigh evidence, and draw factual inferences is vested in the trial court.” *State v. Faith*, 141 Idaho 728, 117 P.3d 142, 144 (Ct. App. 2005). “The reasonableness of a given search or seizure is a question of law.” *State v. Morris*, 131 Idaho 562, 565 (Ct. App. 1998).

IV. ARGUMENT

Trooper Sherbondy lacked reasonable suspicion to effectuate the traffic stop of Mr. Martin. Although the license plate on the front of Mr. Martin’s vehicle was “crooked,” it was

displayed in accordance with the unambiguous requirements set forth in I.C. § 49-428.

Additionally, the subsequent search of Ms. Martin's vehicle was conducted in contravention of Article I, § 17 of the Idaho Constitution, and the Fourth Amendment of the United States Constitution.

A. Trooper Sherbondy Lacked Reasonable and Articulate Suspicion to Conclude that Mr. Martin was Operating his Vehicle Contrary to Idaho Traffic Laws.

"A traffic stop by an officer constitutes a seizure of the vehicle's occupants and implicates the Fourth Amendment's prohibition against unreasonable searches and seizures, as applied to the states by the Fourteenth Amendment." *Delaware v. Prouse*, 440 U.S. 648, 653 (1979); *State v. Atkinson*, 128 Idaho 559, 561 (Ct. App. 1996). "Under the Fourth Amendment, an officer may stop a vehicle to investigate possible criminal behavior if there is a reasonable and articulable suspicion that the vehicle is being driven contrary to traffic laws." *United States v. Cortez*, 449 U.S. 411, 417 (1981); *State v. Flowers*, 131 Idaho 205, 208 (Ct. App. 1998).

"This reasonable suspicion standard requires less than probable cause, *but more than speculation or instinct* on the part of an officer." *State v. Naccarato*, 126 Idaho 10, 12 (Ct. App. 1994) (emphasis added). "The reasonableness of the suspicion must be evaluated upon the totality of the circumstances at the time of the stop." *State v. Ferreira*, 133 Idaho 474, 483 (Ct. App. 1999). "Suspicion will not be found to be justified if the conduct observed by the officer fell within the broad range of what can be described as *normal driving behavior*." *Atkinson*, 128 Idaho at 561 (emphasis added); citing *State v. Emory*, 119 Idaho 661, 664 (Ct. App. 1991).

"It is the State's burden to demonstrate reasonable suspicion for a stop." *State v. Kimball*, 141 Idaho 489, 111 P.3d 625, 627 (2005) (emphasis added). "In Fourth Amendment

applications, the reasonableness of police conduct is judged against an objective standard.” *Id.*; citing *State v. Weaver*, 127 Idaho 288, 291 (1995). “[The courts] examine whether ‘the facts available to the officer at the moment of the seizure . . . would warrant a man of reasonable caution in the belief that the action taken was appropriate.’” *Id.*; citing *Terry v. Ohio*, 392 U.S. 1, 22 (1968).

Subjective good faith “is not enough.” *Kimball*, 111 P.3d at 628. “If subjective good faith were the test, the protections of the Fourth Amendment would evaporate, and the people would be secure in their persons, houses, papers, and effects, only in the discretion of the police.” *Id.* at 628-29; citing *Terry*, 392 U.S. at 22.

1. Mr. Martin’s License Plate was Displayed in Accordance with the Unambiguous Requirements of I.C. § 49-428.

The Idaho Supreme Court has repeatedly held “where the language of a statute is plain and unambiguous, this Court must give effect to the statute as written, without engaging in statutory construction. *State v. Rhode*, 113 Idaho 459, 462 (1999); citing *State v. McCoy*, 128 Idaho 362, 365 (1996). “If the language is clear and unambiguous, there is no occasion for the courts to resort to legislative history or rules of statutory interpretation.” *State v. Escobar*, 134 Idaho 387, 389 (Ct. App. 2000). “Unless the result is palpably absurd, this Court assumes that the legislature meant what is clearly stated in the statute.” *State v. Knott*, 132 Idaho 476, 478 (1999); citing *Miller v. State*, 110 Idaho 298, 299 (1986).

Title 49, Chapter 4, regulates motor vehicle registration. Specifically, I.C. § 49-428 governs the display of license plate and registration stickers. I.C. § 49-428 states in part:

- (1) License plates assigned to a motor vehicle shall be attached, one in the front and the other in the rear, with exception of the following: . . .

- (2) Every license plate shall at all times be securely fastened to the vehicle to which it is assigned to *prevent the plate from swinging*, be at a *height not less than twelve (12) inches from the ground*, measuring from the bottom of the plate, be in a place and position to be *clearly visible*, and shall be maintained free from foreign materials and in a condition to be *clearly legible*, and all registration stickers shall be securely attached to the license plates and shall be displayed as provided in section 49-443(4), Idaho Code.

(emphasis added) (1998).

If the statute were in fact ambiguous to some degree, a strict construction of such would still support the Mr. Martin's position. "Where ambiguity exists as to the elements or potential sanctions of a crime this Court will strictly construe the criminal statute in favor of the defendant." *Knott*, 132 Idaho at 478 (1999); citing *State v. Thompson*, 101 Idaho 430, 437 (1980). Thus, to comply with Title 49, Chapter 4, a license plate must be displayed such that: (1) it is not swinging, (2) it is twelve inches above ground level, (3) it is clearly legible, and (4) it is clearly visible.

Well established canons of statutory construction support the Defendant's position on all fronts. At no point in Trooper Sherbondy's report does he set forth a factual basis such that he could have reasonably believed that Mr. Martin was operating his motor vehicle in contravention of I.C. § 49-428. Although Mr. Martin does concede that his front license plate was secured by "one bolt," it was "securely fastened" such that it was not swinging, as required by Title 49. Secondly, there is no factual basis to support a belief that the license plate was less than twelve inches above ground level. Finally, nothing in Trooper Sherbondy's report lends itself to support the factual basis that Mr. Martin's license plate was not "clearly legible" or "clearly visible."

Consequently, Trooper Sherbondy lacked reasonable and articulable suspicion to conclude that Mr. Martin was operating his vehicle contrary to I.C. § 49-428. As a result, the

seizure of Mr. Martin was unreasonable, in contravention of the Fourth Amendment of the United State Constitution, and Art. I, § 17 of the Idaho State Constitution.

B. Idaho Code § 49-428 is Unconstitutionally Vague as it Permits Arbitrary and Discriminatory Enforcement.

The stop of Mr. Martin's vehicle was unlawful because it was based upon an alleged violation of an unconstitutional statute. Due to the inherent vagueness resulting from the Legislature's poor use of the English language, Idaho Code § 49-428 permitted Trooper Sherbondy in this matter to arbitrarily and discriminatorily enforce the requirements of said statute.

"A statute is unenforceable for vagueness if it 'fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute and permits arbitrary and discriminatory enforcement.'" *State v. Shearer*, 136 Idaho 217, 220 (2001); citing *State v. Bitt*, 118 Idaho 584, 585 (1990) (quoting *U.S. v. Harriss*, 347 U.S. 612, 617 (1954)).

"Although some ambiguity is unavoidable in the English language, a statute that is so ambiguous that persons 'of common intelligence must necessarily guess at its meaning and differ as to its application' is unconstitutionally vague." *Id.*; quoting *Connally v. General Const. Co.*, 269 U.S. 385, 391 (1926); *State v. Leferink*, 133 Idaho 780, 783 (1999). "The law must give sufficient warning that men may conduct themselves so as to avoid that which is forbidden." *State v. Lenz*, 103 Idaho 632, 634 (Ct. App. 1982). It is also necessary that laws provide sufficient standards to those who will enforce them. *Bitt*, 118 Idaho at 585-86. "A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an *ad hoc* and subjective basis, with the attendant dangers of arbitrary and discriminatory application." *Id.* at

586 (quoting *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972)).

Idaho Code § 49-428 is unconstitutionally vague in this matter because it states “securely fastened to the vehicle to which it is assigned to prevent the plate from swinging,” but fails to define how a person of ordinary intelligence is to comply with such. Both parties have stipulated that the license plate on Mr. Martin’s vehicle on the night in question was somewhat skewed to the plane of the road surface. There is no evidence, however, to suggest that Mr. Martin’s license plate was swinging on the night in question. The State’s argument essentially amounts to a presupposition that since Mr. Martin’s license plate was crooked, it must have swung at some point, and therefore was not in compliance with the requirements of I.C. § 49-428.

Idaho Code § 49-428 fails to define how a license plate is to be “securely fastened to the vehicle,” nor does it define which type of swinging it is aimed at preventing. When the statute was codified, the evil that the Legislature sought to avoid could have been one of two things: (1) swinging of license plates parallel to the lane of traffic, or (2) swinging of license plates perpendicular to the lane of traffic. After a person of ordinary intelligence has read the text of I.C. § 49-428, it would require a divine epiphany to surmise the Legislature’s intent. If the Legislature intended that all license plates be securely fastened with two bolts, it could have easily said as much. That was not case, and consequently Idaho Code § 49-428 has allowed law enforcement to arbitrarily and discriminatorily enforce its requirements.

IV. CONCLUSION

Based on the foregoing, the Defendant respectfully requests that this Court hold that Trooper Sherbondy lacked reasonable and articulable suspicion to believe that Mr. Martin was operating his vehicle in contravention of Title 49, Idaho Code. Consequently, it follows that the

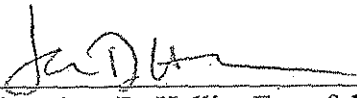
seizure of Mr. Martin is unreasonable under the Fourth Amendment of the United States Constitution and Art. I, § 17 of the Idaho State Constitution.

Based on the foregoing, it is hereby respectfully requested that the fruits of said search and evidentiary matters, both testimonial and tangible, flowing from same are subject to exclusion and should be suppressed.

RESPECTFULLY SUBMITTED this 31st day of July, 2006.

WILCOX & HALLIN

By:



Jonathon D. Hallin, Esq of the Firm,
Attorneys for Defendant

CERTIFICATE OF MAILING

I hereby certify that on the 31st day of July, 2006, I caused a true and correct copy of the above and foregoing document was served by the method indicated below to the following persons:

<input type="checkbox"/> U.S. Mail	Matthew C. Williams
<input type="checkbox"/> Facsimile	Valley County Prosecuting Attorney
<input checked="" type="checkbox"/> Hand Delivery	P.O. Box 1350
<input type="checkbox"/> Fed Ex	Cascade, ID 83611
<input type="checkbox"/> Box	Facsimile: (208) 382-7124

SIGNED:


Secretary

Session: BOOMER073106
Session Date: 2006/07/31
Judge: Boomer, Henry
Reporter:

Division:
Session Time: 08:57

Courtroom: CR201

Clerk(s):
Thompson, Jayne

State Attorney(s):
Williams, Matthew
Brockmann, Carol

Public Defender(s):
Hallin, J.D.
Chastain, Robert

Prob. Officer(s):

Court interpreter(s):

Case ID: 0010

Case number: CR2006-956
Plaintiff:
Plaintiff Attorney:
Defendant: Martin, Christopher
Additional audio and annotations can be found in case: 0012.
Co-Defendant(s):
Pers. Attorney:
State Attorney:
Public Defender:

2006/07/31

11:18:58 - Operator
Recording:
11:18:58 - New case
Martin, Christopher
11:19:01 - Judge: Boomer, Henry
Calls case,
11:19:53 - Operator
Stop recording:

Case ID: 0012

Case number: CR2006-956
Plaintiff:
Plaintiff Attorney:
Defendant: Martin, Christopher
Previous audio and annotations can be found in case: 0010
Co-Defendant(s):
Pers. Attorney:
State Attorney:

Public Defender:

11:36:42 - Operator
Recording:
11:36:42 - Recall
Martin, Christopher
11:36:47 - Judge: Boomer, Henry
Calls case,
11:37:16 - Defendant: Martin, Christopher
Sworn, Yes I was, yes, no I wasn't, pulled over for crooked license plate, 1
11:38:33 - Defendant: Martin, Christopher
bolt came lose,
11:38:42 - Public Defender:
Submit to court,
11:39:28 - State Attorney:
Owners gave permission to drive, afixed by one bolt and hanging at more than
11:39:55 - State Attorney:
30 degree angle.
11:40:21 - Judge: Boomer, Henry
49-428 statutue, sub 1 _ 2, can give ruling, consistent CR06-541C, do find
11:40:54 - Judge: Boomer, Henry
based on stip, stopped by Officer, for sole reason license hanging, driving
11:41:55 - Judge: Boomer, Henry
with permission from owner, make following conclusion of law, declined to
11:42:30 - Judge: Boomer, Henry
suppress stop, to me license plate at 30 degree angle gives officer PC to
11:43:04 - Judge: Boomer, Henry
believe license plate not securely fastened. Swinging, would draw attention
11:43:45 - Judge: Boomer, Henry
to vehicle. Deny motion to suppress.
11:44:57 - State Attorney:
Will proceed with conditional guilty plea.
11:47:35 - Judge: Boomer, Henry
Do written plea, def does not need to be personally present for review.
11:49:48 - Operator
Stop recording:

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND
FOR THE COUNTY OF VALLEY

THE STATE OF IDAHO,

Plaintiff,

-vs-

Christopher P. Martin

Defendant.

Case No. or Citation No. CR-2006-00956C

ORDER SETTING HEARING
OR TRIAL

Filed _____ A.M. _____ P.M.

JUL 31 2006

LELAND G. HEINRICH

By [Signature] Deputy

The above named defendant is ordered to appear on the following dates and times:

PRETRIAL CONFERENCE: _____

COURT TRIAL: _____

SENTENCING: _____

OTHER: Review - Written Conditional Plea?

08/17/06 @ 11:45 a.m.

If you are being sentenced for driving under the influence of alcohol or drugs, any possession of controlled substance or paraphernalia, or minor in possession/consumption of alcohol, you must immediately obtain an evaluation.

If you are being sentenced for domestic battery or assault, you must immediately obtain a domestic violence evaluation.

*Fine and court cost are due the day of sentencing. Jail terms being the day of sentencing.

The defendant's personal appearance is required at the scheduling hearing unless otherwise approved by the Court.

X Cascade Courthouse, 219 N. Main St., Cascade, Idaho

_____ McCall Court Annex, 550 Deinhard Ln., McCall, Idaho

Dated this 31 day of July, 2006.

[Signature]
Magistrate Judge

Defendant acknowledges receipt of the foregoing Order and understands that in the event he fails to appear as ordered, a warrant for his arrest may be issued by the Court.

Dated this 31 day of July, 2006.

X P.A.

X D.A.

X P.D.

X Def.

Chris Martin
Defendant

Defendant not need to be present

Session: BOOMER092506
Session Date: 2006/09/25
Judge: Boomer, Henry
Reporter:

Division:
Session Time: 08:51

Courtroom: CR201

Clerk(s):
Thompson, Jayne

State Attorney(s):
Williams, Matthew
Brockmann, Carol

Public Defender(s):
Wilcox, Todd
Hallin, J.D.

Prob. Officer(s):

Court interpreter(s):

Case ID: 0006

Case number: CR2006-956
Plaintiff:
Plaintiff Attorney:
Defendant: Martin, Christopher
Co-Defendant(s):
Pers. Attorney:
State Attorney:
Public Defender:

2006/09/25

09:46:31 - Operator

Recording:

09:46:31 - New case

Martin, Christopher

09:46:38 - Judge: Boomer, Henry

Calls case, handle same way as Artis set for 10/16/06 at 9:00 a.m., review.

09:48:03 - Operator

Stop recording:

JONATHON D. HALLIN
Wilcox & Hallin
Attorneys at Law
200 Park Street
P.O. Box 947
McCall, Idaho 83638
Telephone: (208) 634-7118
Facsimile: (208) 634-5880
wilcox.hallin@frontiernet.net
ISB # 7253

Attorneys for Defendant

LELAND G. HEINRICH, CLERK
By [Signature] Deputy

OCT 20 2006

Case No. _____ Inst. No. 448
Filed _____ A.M. _____ P.M.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

STATE OF IDAHO,	)	Case No. CR-2006-0000956-C
)	
Plaintiff,	)	CONDITIONAL GUILTY PLEA
)	
VS.)	
)	
CHRISTOPHER P. MARTIN,)	
)	
Defendant.)	

COMES NOW, the Defendant, CHRISTOPHER P. MARTIN, and hereby enters a plea of guilty, to the offense of Driving Without Privileges, third or more offense within five years, in contravention of Idaho Code § 18-8001, a misdemeanor. Said plea is strictly conditioned on the Defendant's reservation of his right to appeal the Magistrate Division's denial of his timely filed Motion to Suppress.

In making my decision to enter this plea, I state to the Court as follows:

1. That I am pleading guilty freely and voluntarily to said criminal offense.

CONDITIONAL GUILTY PLEA - 1 -

2. That I am pleading guilty to said offense with full knowledge that the maximum sentence that I can receive for the offense of Driving Without Privileges, third or more offense within five (5) years, as delineated by I.C. § 18-8001(5) is as follows:

- a. A mandatory minimum period of incarceration of not less than thirty (30) days, and a period not to exceed one (1) year; and
- b. A fine not more than three thousand dollars (\$3,000);
- c. A suspension of his driving privileges for an additional two (2) years following the end of any period of suspension, disqualification or revocation existing at the time of the violation, during the first ninety (90) days of which time he shall have absolutely no driving privileges of any kind.

4. That I have been advised of and have read my rights, and understand, and am fully informed; that I am waiving certain of those rights, except those expressly reserved herein, by entry of this plea of guilty, as follows:

- a. I am giving up my right to a trial of this charge.
- b. I am giving up my presumption of innocence and I am not, by pleading guilty, requiring the State to prove my guilt beyond a reasonable doubt.
- c. I am giving up my right to confront my accusers and other witnesses against me.
- d. I am giving up my privilege against self-incrimination in that I will no longer have the right to remain silent and the court could ask me about the

facts of this case in order to ascertain whether or not there is a basis for my guilty plea.

e. I am giving up my defense I may have to the charge I am pleading guilty to, and also giving up any claim I might have that the Court has treated me unfairly.

f. I may be subjecting myself to further penalties if I am presently on probation or parole.

5. In making this decision to enter a guilty plea, I further state and represent to the Court as follows:

a. That I read and write the English language.

b. That I am not now under the influence of any alcohol, drugs, or other serious substances which might affect my understanding of the nature of this document or the seriousness of this matter.

c. That I have had ample time to discuss this matter with my attorney, JONATHON D. HALLIN, and that I have discussed with him my decision to plead guilty.

d. That no one has threatened me or made any promises to me in order to make me plead guilty.

6. I understand that by making this guilty plea, I will not be permitted to withdraw the guilty plea at a later time.

7. I understand that I am not waiving my right to appeal

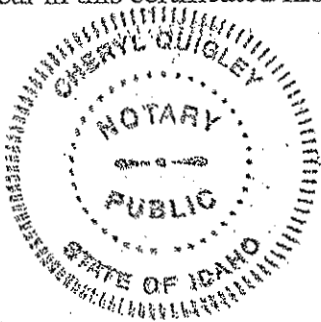
DATED this _____ day of July, 2006.

Chris Martin
CHRISTOPHER P. MARTIN

STATE OF IDAHO)
County of Ada) ss.

On this 26 day of July, 2006, before me, Cheryl Quigley, a Notary Public in and for said State, personally appeared CHRISTOPHER P. MARTIN, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificated first above written.



Cheryl Quigley
Notary Public for Idaho
Residing at: Kuna, Id.
My Commission Expires: 1-4-07

The undersigned, acting as attorney for the Defendant, hereby represents to the Court that he has reviewed the facts of this case and believes that there are sufficient facts upon which the guilty plea of the Defendant may be based.

WILCOX & HALLIN

BY:

Jonathon D. Hallin
Jonathon D. Hallin, Esq. of the Firm
Attorneys for Defendant

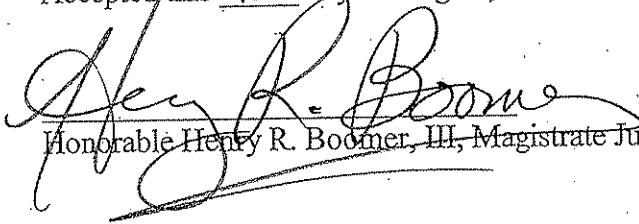
ACCEPTED:

Valley County Prosecuting Attorney



Matthew C. Williams/Carol A. Brockmann

Accepted this 12th ^{October} day of ~~August~~, 2006.



Honorable Henry R. Boomer, III, Magistrate Judge

Session: BOOMER103006
Session Date: 2006/10/30
Judge: Boomer, Henry
Reporter:

Division:
Session Time: 09:04

Courtroom: CR201

Clerk(s):
Thompson, Jayne

State Attorneys:
Brockmann, Carol

Public Defender(s):
Wilcox, Todd

Prob. Officer(s):
Clapp, Skip

Court interpreter(s):

Case ID: 0017

Case Number: CR2006-956
Plaintiff:
Plaintiff Attorney:
Defendant: Martin, Chrstopher
Co-Defendant(s):
Pers. Attorney:
State Attorney:
Public Defender:

2006/10/30

11:46:41 - Operator
Recording:
11:46:41 - New case
Martin, Chrstopher
11:46:49 - Judge: Boomer, Henry
Set for next available sentencing date, 11/30/06 at 9:00 a.m.
.. should trigger
11:47:09 - Judge: Boomer, Henry
notice of appeal and stay.
11:48:57 - Operator
Stop recording:

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND
FOR THE COUNTY OF VALLEY

THE STATE OF IDAHO)

Plaintiff,)

-vs-)

Christopher P. Martin)
Defendant.)

Case No. or Citation No.

CR-2006-0000956-C

ORDER SETTING HEARING
OR TRIAL

LELAND G. HEINRICH, CLERK
By [Signature] Deputy

OCT 3 2006

Case No. _____ Inst. No. _____
Filed _____ A.M. _____ P.M.

The above named defendant is ordered to appear on the following dates and times:

DIST. COURT ARRN: _____

PRETRIAL CONFERENCE: _____

COURT TRIAL: _____

SENTENCING: 11/30/06 9:00 AM

OTHER: _____

If you are being sentenced for driving under the influence of alcohol or drugs, or possession of controlled substance or paraphernalia, or minor in possession/consumption of alcohol, you must immediately obtain an evaluation.

If you are being sentenced for domestic battery or assault, you must immediately obtain a domestic violence evaluation.

*Fine and court cost are due the day of sentencing. Jail terms being the day of sentencing.

The defendant's personal appearance is required at the scheduled hearing unless otherwise approved by the Court.

X Cascade Courthouse, 219 N. Main St., Cascade, Idaho.

_____ McCall Court Annex, 550 Deinhard Ln., McCall, Idaho.

Dated this 30 day of October, 2006.

[Signature]
Magistrate Judge

Defendant acknowledges receipt of the foregoing Order and understands that in the event he fails to appear as ordered, a warrant for his arrest may be issued by the Court.

C.C.:
X P.A.
X (P.D.) D.A.
_____ Defendant

Not Present
Defendant

Session: BOOMER113006
Session Date: 2006/11/30
Judge: Boomer, Henry
Reporter:

Division:
Session Time: 08:45

Courtroom: CR201

Clerk(s):
Thompson, Jayne

State Attorneys:
Brockmann, Carol

Public Defender(s):
Wilcox, Todd

Prob. Officer(s):
Clapp, Skip

Court interpreter(s):

Case ID: 0006

Case Number: CR2006-956
Plaintiff:
Plaintiff Attorney:
Defendant: Martin, Christopher
Co-Defendant(s):
Pers. Attorney:
State Attorney:
Public Defender:

2006/11/30

09:11:47 - Operator
Recording:
09:11:47 - New case
Martin, Christopher
09:11:52 - Judge: Boomer, Henry
Calls case, plead to DWP 3rd,
09:12:24 - State Attorney:
365/335, prob, 30 days work release or weekends, 30 days discretionary time,
09:13:22 - State Attorney:
3000.00/? +cc, 2 year DL suspension no moving violations report all law
09:13:45 - State Attorney:
enforcement contacts
09:15:37 - Judge: Boomer, Henry
Recommendation under new law mandatory minimum.
09:16:06 - Public Defender:
Realize mandatory minimums, works for moving company makes a bout 14.00 per
09:16:28 - Public Defender:
hour.
09:16:41 - Judge: Boomer, Henry

Mr Martin this seems kind of silly mandatory minimum 30 days
don't have to

09:16:59 - Judge: Boomer, Henry
allow work release or weekends. Why not get driving privileges?

09:17:31 - Public Defender:
Unreinstatable right now

09:17:42 - Judge: Boomer, Henry
Is it possible to do in 6 months?

09:17:59 - Defendant: Martin, Christopher
I think so, have SR22, and driving privileges.

09:18:23 - Judge: Boomer, Henry
Roofing company, light on fines statute allows up to 3000.00
, 400.00 + cc,

09:20:26 - Judge: Boomer, Henry
365/335, CTS 1 day allow work release or weekends, first 4
days serve

09:21:17 - Judge: Boomer, Henry
forthwith, means right now, balance can be work release or weekends.

09:21:32 - Judge: Boomer, Henry
Next time read and listen to Judges when they tell you what
to do.

09:22:15 - Judge: Boomer, Henry
10 months to pay.

09:22:22 - Operator
Stop recording:

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT VALLEY COUNTY

☒ JUDGMENT OF CONVICTION ☐ PROBATION ORDER ☐ WITHHELD JUDGMENT

STATE OF IDAHO vs.

Christopher Martin 178062
123 Mores Creek Rim PO Box 178062 By B. Wilkins Dep.
Boise, ID 83716 Boise 83717
DOB 6-12-1983 (208) 941-9535 NOV 30 2006

SS# _____ DEFENDANT having been charged with:
 Count 1: D.W.P. 18-8001-3rd offense Guilty Case No. _____ Inst. No. _____
 Count 2: _____
 Count 3: _____

DEFENDANT having been advised of all rights & penalties per ICR 5, 11, IMCR 5(f)

CASE NO.: CR 2006-956C

DEFENDANT WAS ☒ Present ☐ Not Present

- ☐ Was Represented by: _____
☐ Defendant Waived: ☐ Right Against Self-Incrimination ☐ Jury Trial
 Right To: ☐ Confront & Cross Examine Accuser ☐ Counsel ☐ All Defenses
☐ Voluntary Guilty Plea ☐ Trial: Found Guilty

COURT ENTERS JUDGMENT AFTER:

☐ WITHHELD JUDGMENT - Expires: _____

☒ ORDERED: DEFENDANT'S DRIVING PRIVILEGES SUSPENDED 242 days beginning today; or
☒ With Restricted License ☒ Absolute Suspension

☒ DEFENDANT IS ORDERED TO PAY TO THE CLERK: Time to pay = _____

*Collection fees up to 12% will be imposed for non-payment of fines, costs and fees.

Count 1: 3000 W / \$ _____ Suspended + CT. COSTS \$ 87.50 = \$ 487.50
 Count 2: _____ W / \$ _____ Suspended + CT. COSTS \$ _____ = \$ _____
 Count 3: _____ W / \$ _____ Suspended + CT. COSTS \$ _____ = \$ 250.00
 Community Public Probation
 Service Ins. \$ _____ Defender \$ 250.00 Fees \$ _____ Restitution \$ _____ *Total \$ 737.50

PAY TO: Valley County, P.O. Box 1350, Cascade, ID 83611 • Ph. 208-382-7178 • Fax 208-382-7184 (include Case No.)

☒ DEFENDANT IS ORDERED TO BE INCARCERATED FOR: County _____

Count 1: 365 days W/ 335 Suspended - Credit 1 = Total 29
 Count 2: _____ days W/ _____ Suspended - Credit _____ = Total _____
 Count 3: _____ days W/ _____ Suspended - Credit _____ = Total _____

☒ 30 Days to be served at the discretion of the Probation Officer.

☒ PROBATION ORDERED / CONDITIONS: Probation Expires: 1 yr. - unsupervised

☐ Enroll / complete treatment program(s) marked on Judgment Supplement.

☐ Report to Probation Officer at 550 Deinhard Lane, McCall, ID - 634-4131, within 5 days, sign and comply with standard probation agreement. Probation Officer: _____

☒ No alcohol or controlled substance in bodily system on reporting to jail and during service of jail.

☒ Refuse no evidentiary test for drugs or alcohol with or without probable cause or reasonable suspicion.

☒ Commit no crimes. ☒ Pay all Fines, Costs, Restitution & Reimbursements. ☒ Notify Court of any address change.

☐ Defendant accepted terms & conditions of probation & received copy of this form and Judgment Supplement (if applicable).

☐ File proof of completion of _____ hours of Community Service for Non-Profit or Government agency by _____

☐ File substance abuse / alcohol evaluation with Court by _____ and file proof of completion of

recommendations of evaluation by _____

☒ Other Reinstate w/in 6 mo's

DEFENDANT: Chris Martin Date 11/30/06 Judge 3395

Date of Judgment / Order: 11/30/06

THIS JUDGMENT SUPPLEMENT IS INCORPORATED BY REFERENCE AND
HEREBY MADE A PART OF THE JUDGMENT ENTERED IN THIS CASE

Defendant Christopher Martin
Address PO Box 178062, Boise 83717
Phone _____
Judge Boomer

Case No. CR-06-956-C
Charge DWP
Ref. Date 4/30/06
Clerk/Agency BW/VCC

P.O. Box 1350 • Cascade, Idaho 83611 • Phone 382-7178

The defendant shall make immediate contact with the following marked programs within 24 hours, pay any required fee, arrive at each class on time and fully cooperate with program sponsors.

**FAILURE TO COMPLETE THESE PROGRAMS AS ORDERED MAY RESULT IN THE
ISSUANCE OF A WARRANT FOR YOUR ARREST FOR A VIOLATION OF PROBATION**

☐ _____

☐ LELAND G. HEINRICH, CLERK
By [Signature] Deputy
NOV 30 2006

☐ **VA Medical Center - 338-7208**
500 West Fort - Boise, ID

☐ **Alcoholism Intervention Services - 338-5249**
4477 Emerald, Suite A-200, Boise, ID 83706-2016

☐ **Boise Care Unit - 385-0106**
1010 N. Orchard, Suite 9 - Boise, ID 83706

☐ **Ada County Abuse Prevention - 376-3330**
5440 Franklin Rd., Suite 201 - Boise, ID

☐ **Tom Wilson - 368-9909**
1661 Shoreline Dr. - Boise, ID 83702

☐ **Court Referral Services - Boise 1-800-452-5050**
☐ DUI (8 Hrs.) ☐ DUI (16 Hrs.)
☐ Victim Panel ☐ Youth Victim Panel
☐ Tobacco ☐ Alcohol/Anger Mgmt.

☐ **NTSI - 800-776-6874**
Box 52828 - Bellevue, WA 98015
To be completed within 60 days of date of judgment
☐ Driver Safety ☐ Theft ☐ Aggression Control ☐ Youth Alcohol

☐ **Joseph Wilson - 634-2899 / P.O. Box 2430**
502 N. Third, Suite 206 - McCall, ID 83638

☐ **Community Services - Phone _____**
_____ hrs. _____ days to complete

☐ **Community Services Alternatives - 345-2523**
1940 W. State Street - Boise, ID 83702-3957
_____ hrs. _____ days to complete

☐ **Other _____**

☒ **Valley County Jail - 382-7168**
107 W. Spring Street - Cascade, ID 83611

☐ **Valley County Juvenile Detention - 634-8102**
550 Deinhard Lane - McCall, ID 83638

☒ Total days to serve 29 less any time served on this offense. First 4 days
☒ Defendant to immediately report to jail to begin his sentence. to be served forthwith
☒ Defendant is hereby remanded to the custody of the Valley County Sheriff and must report to the Valley County Jail within 24 hours. Jail to be served at discretion of jail. weekends
☐ Straight Time ☒ Work Release ☐ S.I.L.D. ☐ House Arrest

☐ (JUVENILE) Defendant to immediately contact Juvenile Detention to arrange commencement of sentence. Detention to be served at discretion of Detention Center.

☒ If defendant is serving jail time in a county other than Valley County, the defendant shall pay all costs to the county where jail time is being served prior to the service of jail.

☐ Other _____

Fourth Judicial District Court, State of Idaho
In and For the County of Valley
219 North Main
Cascade, Idaho 83611

ELAND G. HEINRICH, CLERK
Bulkin Deputy



NOV 30 2006

STATE OF IDAHO
Plaintiff,

vs.

Christopher P. Martin
~~423 Mores Creek Rim~~ *PO Box 178062*
Boise, ID 83716 *83717*

Defendant.

DOB: 
DL or SSN: 

Case No. _____ Inst. No. _____
Filed _____ A.M. _____ P.M. _____

Citation No: 1185871

Case No: CR-2006-0000956-C

**NOTIFICATION OF PENALTIES FOR
SUBSEQUENT VIOLATION OF
DRIVING WITHOUT PRIVILEGES**

TO: ABOVE NAMED DEFENDANT.

YOU ARE HEREBY NOTIFIED that if you plead guilty to or are found guilty of driving without privileges in the future, the penalties will be as follows:

A SECOND DWP VIOLATION within five (5) years, including withheld judgments, is a **MISDEMEANOR** and you:

- a) Shall be sentenced to jail for at least twenty (20) days but not more than one (1) year; and
- b) May be fined up to One Thousand Dollars (\$1,000.00); and
- c) Shall have your driving privileges suspended for an additional one (1) year following the end of any period of suspension, disqualification or revocation existing at the time of the second violation, during the first thirty (30) days of which time you shall have absolutely no driving privileges of any kind.

A THIRD DWP VIOLATION or subsequent violation within five (5) years, including withheld judgments, is a **MISDEMEANOR** and you:

- a) Shall be sentenced to jail for at least thirty (30) days but not more than one (1) year; and
- b) May be fined up to Three Thousand Dollars (\$3,000.00); and
- c) Shall have your driving privileges suspended for an additional two (2) years following the end of any period of suspension, disqualification or revocation existing at the time of the violation, during the first ninety (90) days of which time you shall have absolutely no driving privileges of any kind.

I HAVE READ THIS ENTIRE DOCUMENT; I HAVE HAD IT EXPLAINED TO ME; AND I HAVE RECEIVED A COPY.

Dated: *11-30-06*

Chris Martin
Defendant

*cc. Def
PA
PD*

FOURTH JUDICIAL DISTRICT COURT, STATE OF IDAHO
IN AND FOR THE COUNTY OF VALLEY
219 NORTH MAIN
CASCADE, IDAHO 83611

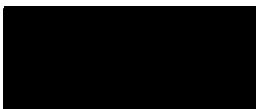
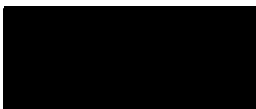
LELAND G. HEINRICH, CLERK
By Becky Wilkins Deputy

NOV 30 2006

IN THE MATTER OF THE SUSPENSION OF THE
DRIVER'S LICENSE OF:

Christopher P. Martin
~~123 Mores Creek Rim~~
Boise, ID ~~83716~~ 83717

Defendant.

DOB: 
DL or SSN: 

Case No. _____ Inst. No. _____
Filed _____ A.M. _____ P.M.

Citation No: 1185871

Case No: CR-2006-0000956-C

**ORDER SUSPENDING DRIVER'S LICENSE
FOR A PLEA OF GUILTY OR FINDING OF
GUILTY OF OFFENSE**

TO: THE IDAHO TRANSPORTATION DEPARTMENT AND THE ABOVE NAMED DEFENDANT

The Defendant having entered a plea of guilty to the offense of Driving Without Privileges, in violation of Section 118-8001, which authorizes or requires the suspension of the driving privileges of the Defendant by the Court, and the Court having considered the same.

NOW, THEREFORE, IT IS HEREBY ORDERED, that the driving privileges and driver's license of the above named Defendant is hereby suspended for a period of ~~30~~ 2 years commencing on the date of this order, or backdated to _____.

YOU ARE FURTHER NOTIFIED, that the expiration of the period of this suspension does not reinstate your driver's license and you must make application to the Idaho Transportation Department, Driver Services Section, P.O. Box 34, Boise, Idaho, 83731-0034, (208) 334-8736 for reinstatement of your driver's license after the suspension period expires.

Dated: 11/30/06

Judge: Deey R. Boomer

I hereby certify that the foregoing is a true and correct copy of the original Order Suspending Driver's License For a Plea of Guilty or Finding of Guilty of Offense entered by the Court and on file in this office. I further certify that copies of this Order were served as follows on 11/30/06.

Defendant: Christopher P. Martin Mailed _____

Hand Delivered X

Department of Transportation, Boise: Mailed X

Hand Delivered _____

License Attached: X yes
X no

Dated: 11/30/06

Leland G. Heinrich, Clerk Of The District Court

By: Becky Wilkins

Deputy Clerk

CC Dep
PA
PD
D.O.T

LELAND G. HEINRICH, CLERK
By _____ Deputy

DEC 01 2006

Case No. _____ Inst. No. _____
Filed _____ A.M. _____ P.M.

JONATHON D. HALLIN
WILCOX & HALLIN, PLLC
Attorneys at Law
200 Park Street
P.O. Box 947
McCall, Idaho 83638
Telephone: (208) 634-7118
Facsimile: (208) 634-5880
wilcox.hallin@frontiernet.net
ISB # 7253

Attorneys for Defendant/Appellant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

STATE OF IDAHO,)	Case No. CR-2006-000956-C
)	
Plaintiff/Respondent,	)	MOTION TO STAY EXECUTION
	)	OF SENTENCE PENDING APPEAL
vs.)	
)	
CHRISTOPHER P. MARTIN,)	
)	
Defendant/Appellant.)	
_____)	

COMES NOW, the Defendant, CHRISTOPHER P. MARTIN, by and through his counsel of record, Jonathon D. Hallin, of the firm, Wilcox & Hallin, PLLC, and moves this Honorable Court for an Order staying execution of the sentence imposed in this matter.

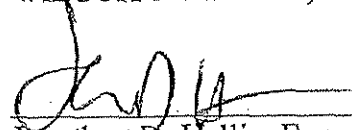
This Motion is made pursuant to Rule 54.5, Idaho Criminal Rules. On October 20, 2006, the Defendant submitted a conditional guilty plea, reserving the right to appeal his motion to suppress. On December 1, 2006, the Defendant filed a Notice of Appeal in the above-captioned matter.

BASED UPON THE FOREGOING, the Defendant respectfully requests that this Honorable Court issue an Order staying execution of the sentence imposed in this matter, pending appeal.

RESPECTFULLY REQUESTED this 1st day of December, 2006.

WILCOX & HALLIN, PLLC

BY:


Jonathon D. Hallin, Esq of the Firm
Attorneys for Defendant

CERTIFICATE OF MAILING

I hereby certify that on the 1 day of December, 2006, I caused a true and correct copy of the above and foregoing document to be served by the method indicated below to the following persons:

- ☐ U.S. Mail
- ☐ Certified Mail
- ☐ Federal Express
- ☒ Facsimile
- ☐ Hand Delivery
- ☐ Box

Matthew C. Williams
Valley County Prosecuting Attorney
P.O. Box 1350
Cascade, Idaho 83615
Facsimile: (208) 382-7124

SIGNED:

Annie Howland
Secretary

LELAND G. HENRICH, CLERK
By _____ Deputy

DEC 01 2006

Case No. _____ Inst. No. _____
Filed _____ A.M. _____ P.M.

JONATHON D. HALLIN
WILCOX & HALLIN, PLLC
Attorneys at Law
200 Park Street
P.O. Box 947
McCall, Idaho 83638
Telephone: (208) 634-7118
Facsimile: (208) 634-5880
wilcox.hallin@frontiernet.net
ISB # 7253

Attorneys for Defendant/Appellant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

STATE OF IDAHO,)	Case No. CR-2006-000956-C
)	
Plaintiff/Respondent,	)	NOTICE OF APPEAL
)	
vs.)	
)	
CHRISTOPHER P. MARTIN,)	
)	
Defendant/Appellant.)	

COMES NOW, the Defendant, CHRISTOPHER P. MARTIN, by and through his counsel of record, Jonathon D. Hallin, of the firm, Wilcox & Hallin, PLLC, and notices his appeal of the decision below and pursuant to Rule 54.4 I.C.R. provides the following information:

- a. The title of the action or proceedings: State v. Christopher P. Martin.

b. The title of the court which heard the trial or proceedings appealed from and the name of the presiding magistrate: The District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Valley, Magistrate Division; Honorable Judge Henry R. Boomer, III, presiding.

c. The number assigned to the action or proceeding by the trial court: CR-2006-000956-C.

d. The title of the court to which the appeal is taken: The District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Valley.

e. The date and heading of the judgment, decision or order from which the appeal is taken: Judgment of Conviction, dated November 30, 2006. Specifically, the Appellant seeks review of his Motion to Suppress.

The Appellant submitted a Conditional Guilty Plea on October 20, 2006, reserving his right to appeal the denial of his Motion to Suppress. Oral Arguments on said Motion were heard on July 31, 2006. The court issued its ruling on said Motion, on the record, in open court, on July 31, 2006.

f. This appeal is taken upon matters of law and fact.

g. The testimony and proceedings in the sentencing were recorded, by audio tape, and said audio tape is in the possession of the Valley County Clerk of the Court.

h. I certify that this notice of appeal has been served, by first class mail, United States Postal Service, upon Matthew C. Williams, Valley County Prosecuting Attorney, P.O. Box 1350, Cascade, Idaho 83611.

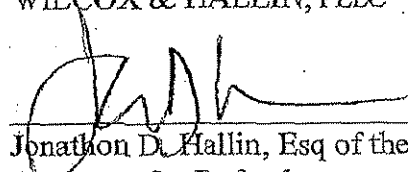
i. Statement of Issues on Appeal: The Defendant reserves the right to supplement this list in accordance with I.C.R. 54.4(i), if other issues are hereinafter discovered by appellant.

- (1) Whether the Appellant has standing to challenge the seizure and subsequent warrantless search of the motor vehicle he was operating.
- (2) Whether Trooper Sherbondy lacked reasonable and articulable suspicion to reasonably conclude that the Appellant was operating his motor vehicle contrary to Idaho traffic laws.
- (3) Whether Idaho Code § 49-428 is unconstitutionally vague as it permits arbitrary and discriminatory enforcement.

SO NOTICED this 1st day of December, 2006.

WILCOX & HALLIN, PLLC

BY:


Jonathon D. Hallin, Esq of the Firm
Attorneys for Defendant

CERTIFICATE OF MAILING

I hereby certify that on the 1 day of December, 2006, I caused a true and correct copy of the above and foregoing document to be served by the method indicated below to the following persons:

- ☐ U.S. Mail
- ☐ Certified Mail
- ☐ Federal Express
- ☒ Facsimile
- ☐ Hand Delivery
- ☐ Box

Matthew C. Williams
Valley County Prosecuting Attorney
P.O. Box 1350
Cascade, Idaho 83615
Facsimile: (208) 382-7124

SIGNED: Annie Howland
Secretary

JONATHON D. HALLIN
 WILCOX & HALLIN, PLLC
 Attorneys at Law
 200 Park Street
 P.O. Box 947
 McCall, Idaho 83638
 Telephone: (208) 634-7118
 Facsimile: (208) 634-5880
 wilcox.hallin@frontiernet.net
 ISB # 7253

Attorneys for Defendant/Appellant

ARCHIVED
 By *J. Thompson*
 JAN 7 1 2007
 Case No. _____ Inst. No. _____
 Filed _____ A.M. _____ P.M.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

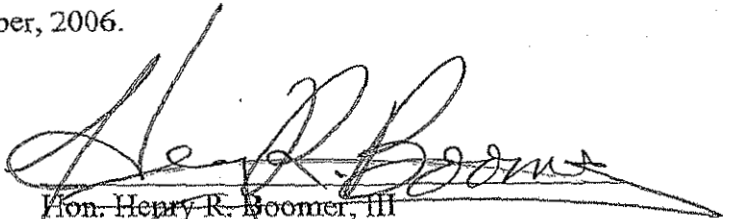
STATE OF IDAHO,)	Case No. CR-2006-000956-C
)	
Plaintiff/Respondent,	)	ORDER STAYING EXECUTION OF
	)	SENTENCE PENDING APPEAL
vs.)	
)	
CHRISTOPHER P. MARTIN,)	
)	
Defendant/Appellant.)	

THIS MATTER having come before this Court upon the Defendant's Motion to Stay
 Execution of Sentence Pending Appeal.

IT APPEARING said Motion was filed pursuant to, and supported by Rule 54.5, Idaho
 Criminal Rules. It further appearing that good cause exists in support of said Motion.

BASED UPON THE FOREGOING, IT IS HEREBY ORDERED that execution of sentence in this matter as imposed by the Court on November 30, 2006, is hereby stayed pending appeal in this matter. Said sentence shall be stayed in the event all appellate procedures are exhausted by the Defendant.

SO ORDERED this 6 day of December, 2006.


Hon. Henry R. Boomer, III
Magistrate Judge

CERTIFICATE OF MAILING

I hereby certify that on the 11 day of Jan 2007, I caused a true and correct copy of the above and foregoing document to be served by the method indicated below to the following persons:

- ☐ U.S. Mail
- ☐ Certified Mail
- ☐ Federal Express
- ☐ Facsimile
- ☐ Hand Delivery
- ☒ Box

Matthew C. Williams
Valley County Prosecuting Attorney
P.O. Box 1350
Cascade, Idaho 83615
Facsimile: (208) 382-7124

- ☐ U.S. Mail
- ☐ Certified Mail
- ☐ Federal Express
- ☐ Facsimile
- ☐ Hand Delivery
- ☒ Box

Jonathon D. Hallin
WILCOX & HALLIN, PLLC
Attorneys at Law
P.O. Box 947
McCall, Idaho 83638
Facsimile: (208) 634-5880

SIGNED:

Jayne Thompson
Secretary

deputy clerk

cc V.C.T.

ARCHIE N. BANBURY, CLERK
BY J. J. J. DEPUTY
JUN 12 2007

Case No. _____ Inst. No. _____
Filed 9:52 A.M. _____ P.M.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

STATE OF IDAHO,

Plaintiff/Respondent,

vs.

CHRISTOPHER P. MARTIN,

Defendant/Appellant.

Case No. CR-2006-956*C

ORDER GOVERNING
PROCEDURE ON APPEAL

Notice of Appeal having been filed herein, and it appearing that transcripts of all the testimony of the original trial or hearing has been provided by Appellant to resolve the issues on appeal, and that no objections to the transcripts have been filed, and that more than 21 days have elapsed since such notice of lodging was mailed by the Clerk; and that such transcripts are deemed settled; and Appellant's Brief having been filed on June 7, 2007;

It is ORDERED:

1) That the Respondent's brief shall be filed and served within 28 days after service of the Appellant's brief.

2) That Appellant's reply brief, if any, shall be filed and served within 21 days after service of Respondent's brief.

3) That either party may notice the matter for oral argument on any civil motion calendar after all briefs are filed, and that if neither party does so notice the matter for

oral argument, the Court will deem oral argument waived and decide the case on the briefs and the record.

Dated this 11th day of June, 2007.



THOMAS F. NEVILLE
District Judge

CERTIFICATE OF MAILING

I, Archie N. Banbury, the undersigned authority, do hereby certify that on this 12th day of June, 2007, I have mailed/served, a true and correct copy of the ORDER GOVERNING PROCEDURE ON APPEAL as notice pursuant to Rule 77(d) I.C.R. to each of the attorneys of record in this cause in envelopes addressed as follows:

VALLEY COUNTY PROSECUTOR
INTERDEPARTMENTAL MAIL

Jonathon Hallin
Wilcox & Hallin
Valley Co. Public Defenders
P. O. Box 947
McCall, ID 83638

Archie N. Banbury
Clerk of the District Court
Valley County, Idaho

By J. Garrison
Deputy

ARCHIE N. BANBURY, CLERK

By [Signature] Deputy

JUN 18 2008

Case No. _____ Inst. No. _____

Filed _____ A.M. 5:30 P.M.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

CHRISTOPHER P. MARTIN,

Defendant-Appellant.

Case No. CR-2006-956

MEMORANDUM DECISION
AND ORDER

BRIEFS SUBMITTED:

Jonathon D. Hallin, for the Defendant-Appellant.

This matter came before the Court on appeal from an order of the Magistrate's Division of the Fourth Judicial District for Valley County denying the Defendant-Appellant's Motion to Suppress. Appellant's Brief was filed on June 7, 2007. An Order Governing Procedure on Appeal was filed on June 12, 2007. Respondent did not file a brief. Oral argument has not been requested in this matter. Despite the fact that there was no Respondent's Brief filed, this Court will decide the issues presented based on the record before the Court.

FACTUAL AND PROCEDURAL BACKGROUND

This case arises from a traffic stop which occurred on or about April 24, 2006, in which Idaho State Police Trooper Mike Sherbondy stopped the Defendant in Valley County, Idaho, for an unsecure license plate in contravention of Idaho Code Section 49-428(2). In the course of Trooper Sherbondy's traffic stop, he discovered that Defendant Christopher P. Martin, the driver of the vehicle (who was

1 driving with the permission of the registered owner who was also in the vehicle), had his driver's license
2 suspended. Trooper Sherbondy placed the Defendant under arrest for Driving Without Privileges. The
3 Defendant was charged with Driving Without Privileges under Idaho Code Section 18-8001.

4 On July 31, 2006, Defendant filed a Motion to Suppress the traffic stop and the evidence
5 obtained. Also on July 31, 2006, the Magistrate Judge heard oral argument on the Motion to Suppress
6 and denied Defendant's Motion to Suppress, issuing findings of fact and conclusions of law on the
7 record. On October 23, 2006, the Defendant filed a Conditional Guilty Plea, expressly reserving his
8 right to appeal the Magistrate's denial of his Motion to Suppress. On November 30, 2006, Defendant's
9 Conditional Guilty Plea was accepted and a Judgment of Conviction and Sentence was entered. A
10 Motion to Stay Execution of Sentence Pending Appeal, as well as a Notice of Appeal were filed on
11 December 1, 2006. On January 11, 2007, the Magistrate Judge entered an Order Staying Execution of
12 Sentence Pending Appeal.
13

14 ISSUES PRESENTED ON APPEAL

- 15 1. Whether Idaho Code Section 49-428 is Unconstitutionally Vague to Permit Arbitrary and
16 Discriminatory Enforcement.
- 17 2. Whether the Magistrate Judge Erred in Denying Defendant's Motion to Suppress.¹

18 STANDARD OF REVIEW

19 Statutory interpretation is a question of law over which appellate courts exercise free review.
20 *State v. Thompson*, 140 Idaho 796, 798, 102 P.3d 1115, 1117 (2004). When construing a statute, the
21

22
23 ¹ Although Appellant only identified one issue on appeal asking the Court to
24 determine if the Magistrate Judge erred in denying the Defendant's Motion to
25 Suppress, the Appellant also argues that this Court should find that Idaho Code
26 Section 49-428 is unconstitutionally vague and therefore unenforceable as a matter
of law. Therefore, for organizational purposes, this Court has set forth two
distinct and separate issues of law presented on appeal for the Court to decide.

1 court is to determine and give effect to the intent of the legislature. *George W. Watkins Family v.*
2 *Messenger*, 118 Idaho 537, 539-40, 797 P.2d 1385, 1387-88 (1990).

3 The standard of review for a suppression motion is bifurcated. When a decision on a motion to
4 suppress is challenged, the trial court's findings of fact supported by substantial evidence are accepted,
5 but the determination of whether constitutional standards were satisfied in light of the found facts is
6 freely reviewed. *State v. Atkinson*, 128 Idaho 559, 561, 916 P.2d 1284, 1286 (Ct. App. 1996). The
7 appellate court must defer to the trial court's findings of fact if they are supported by substantial
8 evidence. *State v. McAfee*, 116 Idaho 1007, 1008, 783 P.2d 874, 875 (Ct. App. 1989). However, the
9 appellate court freely reviews the trial court's determination of law whether constitutional requirements
10 have been satisfied. *Id.*

11
12 At a suppression hearing, the trial court is vested with the power to judge the credibility of the
13 witnesses, resolve any conflicts in the testimony, weigh the evidence, and draw factual inferences. *State*
14 *v. Valdez-Molina*, 127 Idaho 102, 106, 897 P.2d 993, 997 (1995). However, the reasonableness of a
15 search or seizure is a question of law. *State v. Morris*, 131 Idaho 562, 565, 961 P.2d 653, 656 (Ct. App.
16 1998). Therefore, free review is due to the constitutionality of a law enforcement officer's reasonable
17 belief in making a traffic stop, while a deferential standard is applied to the trial court's interpretation of
18 the constitutionality of the police conduct as applied to the facts in a particular case.
19

20 DISCUSSION

21 1. Whether Idaho Code Section 49-428 is Unconstitutionally Vague to Permit Arbitrary and 22 Discriminatory Enforcement

23 Generally speaking, judicial interpretation of a statute begins with an examination of the statute's
24 literal words. *State v. Burnight*, 132 Idaho 654, 659, 978 P.2d 214, 219 (1999). The Idaho Supreme
25 Court has recognized that where the language of a statute is plain and unambiguous, the courts must give
26

1 effect to the statute as written, without engaging in statutory construction. *State v. Rhode*, 133 Idaho
2 459, 462, 988 P.2d 685, 688 (1999). If the language of the statute is clear and unambiguous, there is no
3 reason for the courts to resort to legislative history or rules of statutory interpretation. *State v. Escobar*,
4 134 Idaho 387, 389, 3 P.3d 65, 67 (Ct. App. 2000). The language must be given its plain, obvious, and
5 rational meaning. *Burnight*, 132 Idaho at 659, 978 P.2d at 219. Unless the result is palpably absurd, the
6 court is to assume that the legislature meant what is clearly stated in the statute. *State v. Knott*, 132
7 Idaho 476, 478, 974 P.2d 1105, 1107 (1999). If the court must engage in statutory construction, it has
8 the duty to ascertain the legislative intent and give effect to that intent. *Rhode*, 133 Idaho at 462, 988
9 P.2d at 688. To ascertain the legislative intent, the court must look at the literal words of the statute as
10 well as the context of those words, the public policy behind the statute, and the legislative history. *Id.*

11
12 Title 49, Chapter 4 of the Idaho Code regulates motor vehicle registration. Specifically, Idaho
13 Code Section 49-428 governs the display of license plate and registration stickers. Section 49-428 states
14 in pertinent part:

15 Every license plate shall at all times be securely fastened to the vehicle to which it is
16 assigned to prevent the plate from swinging, be at a height not less than twelve (12)
17 inches from the ground, measuring from the bottom of the plate, be in a place and
18 position to be clearly visible, and shall be maintained free from foreign materials and in a
condition to be clearly legible, and all registration stickers shall be securely attached to
the license plates and shall be displayed as provided in section 49-443(4), Idaho Code.

19 Idaho Code Ann. § 49-428(2) (emphasis added). Appellant argues that section 49-428(2) is
20 unconstitutionally vague because the words “securely fastened” permit arbitrary and discriminatory
21 enforcement. More specifically, Appellant argues that section 49-428 fails to define how a license plate
22 is to be “securely fastened to the vehicle,” as the Idaho Legislature could have intended two
23 interpretations of preventing a plate from either: (1) swinging parallel to the lane of traffic in a forward
24 and backward motion; or (2) swinging perpendicular to the lane of traffic in a manner where only one
25
26

1 corner of the plate is fastened. Appellant argues that the language "securely fastened" does not require
2 that license plates be fastened with two bolts, and that had the legislature intended for license plates to
3 be fastened with two bolts, it could have specifically required such.

4 This Court does not find the language in section 49-428 to be unconstitutionally vague; rather,
5 this Court finds the language clear and unambiguous. Not only does section 49-428 require a license
6 plate to be "securely fastened to the vehicle to which it is assigned to prevent the plate from swinging,"
7 but it also requires the plate to "be in a place and position to be clearly visible," and be "maintained free
8 from foreign materials and in a condition to be clearly legible." Idaho Code Ann. § 49-428(2). The
9 language of section 49-428 clearly conveys the legislative purpose that all license plates shall be securely
10 fastened, clearly visible, and clearly legible. Regardless of whether a plate is positioned to allow
11 swinging parallel in a forward and backward motion or perpendicular to the lane of traffic, where only
12 one corner of the plate is fastened, if the license plate is in any position to be swinging, it is clearly not
13 "securely fastened to the vehicle . . . to prevent the plate from swinging."
14

15 This does not mean that in order to be in violation of Idaho Code Section 49-428, a license plate
16 must be swinging. Rather, the language clearly contemplates that if a license plate is securely fastened,
17 it would not be able to swing. Appellant also attempts to argue that his license plate was securely
18 fastened by one bolt and had the legislature intended to require license plates be secured with two bolts,
19 it could have designated such. However, the Idaho Legislature did not have to articulate specifically that
20 license plates which are adequately secured with two bolts would prevent a license plate from swinging
21 because such a fact is quite obvious in nature and design. It is general knowledge that Idaho license
22 plates are equipped with two holes, which may be secured with two bolts. Therefore, the language in
23 section 49-428 which require license plates to be "securely fastened to the vehicle to which it is assigned
24
25
26

to prevent the plate from swinging,” is clear and unambiguous. Thus, this Court cannot find that Idaho Code Section 49-428 is unconstitutionally vague.

2. Whether the Magistrate Judge Erred in Denying Defendant’s Motion to Suppress

The Fourth Amendment of the United States Constitution, as applied to the States through the Fourteenth Amendment, guarantees the right to be secure in “persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const. amend. IV; *see also* U.S. Const. amend. XIV. Article I, Section 17 of the Idaho Constitution also prohibit unreasonable searches and seizures. Searches or seizures conducted without a warrant are presumptively unreasonable. *State v. Stewart*, 145 Idaho 641, ___, 181 P.3d 1249, 1252 (Ct. App. 2008) (citing *Coolidge v. New Hampshire*, 403, U.S. 443, 454-55, 91 S.Ct. 2022, 2031-32 (1971)).

A traffic stop by a law enforcement officer constitutes a seizure of the vehicle’s occupants implicating the Fourth Amendment’s guarantee of freedom from unreasonable searches and seizures. *State v. Atkinson*, 128 Idaho 559, 561, 916 P.2d 1284, 1286 (Ct. App. 1996) (citing *Delaware v. Prouse*, 440 U.S. 648, 653, 99 S.Ct. 1391, 1395-96 (1979)). Traffic stops do not offend the Fourth Amendment if the facts known to the officer at the time gave rise to a reasonable suspicion to believe that the vehicle is being driven contrary to traffic laws. *Id.* (citing *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868 (1968)). “The traffic stop must be supported by a reasonable and articulable suspicion that the vehicle is being driven contrary to traffic laws or that either the vehicle or the occupant is subject to detention in connection with a violation of other laws.” *State v. Flowers*, 131 Idaho 205, 208, 953 P.2d 645, 648 (Ct. App. 1998); *see also United States v. Cortez*, 449 U.S. 411, 417, 101 S.Ct. 690, 694-95 (1981).

Reasonable suspicion requires less than probable cause, but more than speculation or an officer’s instinct. *State v. Naccarato*, 126 Idaho 10, 12, 878 P.2d 184, 186 (Ct. App. 1994), *abrogated on other grounds by State v. Clark*, 135 Idaho 255, 16 P.3d 931 (2000); *see also State v. Van Dorne*, 139 Idaho

1 961, 963, 88 P.3d 780, 782 (Ct. App. 2004). "The reasonableness of the officer's suspicion is evaluated
2 based upon the totality of the circumstances at the time of the seizure." *State v. Salois*, 144 Idaho 344,
3 160 P.3d 1279, 1282 (Ct. App. 2007) (citing *State v. Evans*, 134 Idaho 560, 563, 6 P.3d 416, 419 (Ct.
4 App. 2000); *State v. Flowers*, 131 Idaho 205, 208, 953 P.2d 645, 648 (Ct. App. 1998)). The State has
5 the burden of proving that the stop was justified. *Van Dorne*, 139 Idaho at 963, 88 P.3d at 782.

6 There must be "specific and articulable facts which, taken together with rational inferences from
7 those facts, reasonably warrant" the seizure. *Terry v. Ohio*, 392 U.S. 1, 21, 88 S.Ct. 1868, 1880 (1968).
8 The Idaho Court of Appeals has also recognized that "[s]uspicion will not be found to be justified if the
9 conduct observed by the officer fell 'within the broad range of what can be described as normal driving
10 behavior.'" *Atkinson*, 128 Idaho at 561, 916 P.2d at 1286 (quoting *State v. Emory*, 119 Idaho 661, 664,
11 809 P.2d 522, 525 (Ct. App. 1991)). "[T]he reasonableness of police conduct is judged against an
12 objective standard." *State v. Kimball*, 141 Idaho 489, 492, 111 P.3d 625, 628 (Ct. App. 2005) (citing
13 *State v. Weaver*, 127 Idaho 288, 291, 900 P.2d 196, 199 (1995)). Courts are to examine the facts known
14 to the officer at the time of the stop to determine whether a reasonable person would have believed the
15 action taken was appropriate. *Kimball*, 141 Idaho at 492, 111 P.3d at 628 (citing *Terry v. Ohio*, 392 U.S.
16 1, 22, 88 S.Ct. 1868, 1880 (1968)). The factual determinations perceived by the officer need not always
17 be correct, but they must be found to be reasonable. *Id.* Furthermore, an officer's subjective good faith
18 is not enough. *Id.* The United States Supreme Court has recognized that "[i]f subjective good faith
19 alone were the test, the protections of the Fourth Amendment would evaporate, and the people would be
20 'secure in their persons, houses, papers, and effects,' only in the discretion of the police." *Id.* (quoting
21 *Terry*, 392 U.S. at 22, 88 S.Ct. at 1880).

22 In the present case, the Court must determine whether the traffic stop was supported by a
23 "reasonable and articulable suspicion" that the Defendant's vehicle was being driven contrary to Idaho
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1 Code Section 49-428. According to the findings of fact by the Magistrate Judge, Trooper Sherbondy
2 observed that the Defendant's license plate appeared to have only one bolt and to be hanging at a thirty
3 (30) degree angle. Defendant's license plate was only fastened with one bolt and at one time swung in a
4 motion perpendicular to the lane of traffic rather than parallel to it.

5 As discussed previously, Idaho Code Section 49-428 requires that license plates be "securely
6 fastened to the vehicle to which it is assigned to prevent the plate from swinging." Idaho Code Ann. §
7 49-428(2). This Court agrees with the Magistrate Judge's findings that Trooper Sherbondy had
8 reasonable and articulable suspicion that Defendant's license plate, being secured by only one bolt and
9 hanging at an angle, appeared not to be securely fastened and that it might have been swinging in
10 violation of Idaho Code Section 49-428. If a license plate is not securely fastened in such a manner to be
11 clearly visible or legible, that is also a violation of Idaho Code Section 49-428. Regardless of whether a
12 license plate is moving or is hanging at an angle, such license plate may be difficult to read.

14 Additionally, the position of Defendant's license plate in an angled manner was enough to catch
15 Trooper Sherbondy's attention while on patrol. If most license plates are securely fastened with two
16 bolts in a manner which prevents the license plate from swinging, a license plate attached with only one
17 bolt and tilted in a downward position understandably draws attention as being out of the ordinary.
18 Therefore, this Court finds that Trooper Sherbondy had reasonable and articulable suspicion to initiate a
19 traffic stop believing the Defendant to be operating his vehicle in a manner contrary to Idaho Code
20 Section 49-428.
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CONCLUSION

Based on the above, the Magistrate's denial of Defendant's Motion to Suppress is AFFIRMED. The Order Staying Execution of Sentence Pending Appeal is vacated and the case is remanded to the Magistrate Division for such action as may be appropriate. AND IT IS SO ORDERED.

Dated this 18th day of June, 2008.

Thomas F. Neville
Thomas F. Neville
District Judge

CERTIFICATE OF MAILING

I hereby certify that on this 18 day of June, 2008, I mailed (served) a true and correct copy of the within instrument to:

JONATHON D. HALLIN
VALLEY COUNTY PUBLIC DEFENDER
PO BOX 947
MCCALL, IDAHO 83638

MATTHEW C. WILLIAMS
VALLEY COUNTY PROSECUTING ATTORNEY
PO BOX 1350
CASCADE, IDAHO 83611

ARCHIE N. BANBURY
Clerk of the District Court
Valley County, Idaho

Deputy Clerk

ARCHIE N. BANBURY, CLERK
By E. Crosby Deputy

JUL 30 2008

Case No. _____ Inst. No. _____
Filed _____ A.M. 245 P.M.

JONATHON D. HALLIN
HALLIN LAW, PLLC
200 Park Street
P.O. Box 1067
McCall, Idaho 83638
Telephone: (208) 634-7118
Facsimile: (208) 634-5880
Email: hallinlaw@gmail.com
ISB # 7253

Attorney for Defendant/Appellant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

STATE OF IDAHO,

Plaintiff/Respondent,

vs.

CHRISTOPHER P. MARTIN,

Defendant/Appellant.

Case No. CR-2006-C⁷⁵⁶

S.C. DOCKET NO. _____

NOTICE OF APPEAL

TO: THE ABOVE NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S
ATTORNEY, MATTHEW C. WILLIAMS, VALLEY COUNTY PROSECUTING
ATTORNEY, P.O. BOX 1350, CASCADE, IDAHO 83611, AND THE CLERK OF THE
ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above named appellant, CHRISTOPHER P. MARTIN, appeals against the above
named respondent, to the Idaho Supreme Court from the District Court's Memorandum

NOTICE OF APPEAL - Page 1

ORIGINAL⁶⁰

Decision and Order, entered in the above entitled action on the 18th day of June, 2008, Honorable Judge Thomas F. Neville, presiding.

2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule 11(c)(10), I.A.R.
3. A preliminary statement of the issues on appeal which the Appellant then intends to assert in the appeal is as follows:
 - a. Whether the trial court erred in refusing to grant Mr. Martin's Motion to Suppress as Idaho Code § 49-428 is unconstitutionally vague as it permits arbitrary and discriminatory enforcement.
 - b. Whether the trial court erred in refusing to grant the Defendant's Motion to Suppress on the ground that law enforcement lacked reasonable and articulable suspicion to reasonably conclude that Mr. Martin was operating his motor vehicle contrary to Idaho traffic laws.
4. To the Appellant's knowledge, an order has not been entered sealing all or any part of this record or transcript.
5. The Appellant hereby requests a preparation and inclusion of the following transcripts, to wit:
 - a. Motion to Suppress Hearing, held on July 31, 2006, before the Honorable Henry R. Boomer, III, Magistrate Judge. A transcript of such was previously prepared and lodged in the above-captioned matter on April 25, 2007. No other transcripts are requested at this time.

6. The Appellant requests that the following specific documents be included in the clerk's record, in addition to those automatically included pursuant to Rule 28, I.A.R., to wit:

- a. Memorandum in Support of Defendant's Motion to Suppress, dated July 31, 2006,
and filed herein on July 31, 2006.

7. I certify:

- (a) That a copy of this notice of appeal has been served on each reporter of whom a transcript has been requested as named below at the address set out below:

Name and address:

- (b) (1) ☐ That the clerk of the district court or administrative agency has been paid the estimated fee for preparation of the reporter's transcript.
- (2) ☒ That the appellant is exempt from paying the estimated transcript fee because he is indigent, having previously been declared a "needy person" pursuant to Title 19, Chapter 8, Idaho Code.
- (c) (1) ☐ That the estimated fee for preparation of the clerk's or agency's record has been paid.
- (2) ☒ That the appellant is exempt from paying the estimated fee for preparation of the record because he is indigent, having previously been declared a "needy person" pursuant to Title 19, Chapter 8, Idaho Code.
- (d) (1) ☐ That the appellate filing fee has been paid.

(2) X That the appellant is exempt from paying the appellate filing fee because he is indigent, having previously been declared a "needy person" pursuant to Title 19, Chapter 8, Idaho Code.

(e) That service has been made upon all parties required to be served pursuant to Rule 20.

DATED this 30th day of July, 2008.

HALLIN LAW, PLLC

BY:



Jonathon D. Hallin, Esq. of the Firm
Attorney for appellant

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of July, 2008, I caused a true and correct copy of the above and foregoing document to be served by the method indicated below to the following persons:

<input type="checkbox"/>	U.S. Mail	Matthew C. Williams
<input type="checkbox"/>	Certified Mail	Valley County Prosecuting Attorney
<input type="checkbox"/>	Federal Express	P.O. Box 1350
<input type="checkbox"/>	Facsimile	Cascade, Idaho 83611
<input checked="" type="checkbox"/>	Hand Delivery	Facsimile: (208) 382-7124
<input type="checkbox"/>	Box	
<input checked="" type="checkbox"/>	U.S. Mail	Clerk of the Court
<input type="checkbox"/>	Certified Mail	Idaho State Supreme Court
<input type="checkbox"/>	Federal Express	P.O. Box 83702
<input type="checkbox"/>	Facsimile	Boise, Idaho 83702-0101
<input type="checkbox"/>	Hand Delivery	Facsimile: (208) 334-2616
<input type="checkbox"/>	Box	
<input checked="" type="checkbox"/>	U.S. Mail	Idaho Attorney General's Office
<input type="checkbox"/>	Certified Mail	Criminal Division
<input type="checkbox"/>	Federal Express	P.O. Box 83702
<input type="checkbox"/>	Facsimile	Boise, Idaho 83702-0101
<input type="checkbox"/>	Hand Delivery	
<input type="checkbox"/>	Box	
<input type="checkbox"/>	U.S. Mail	Clerk of the Court
<input type="checkbox"/>	Certified Mail	Valley County District Court
<input type="checkbox"/>	Federal Express	P.O. Box 1350
<input type="checkbox"/>	Facsimile	Cascade, Idaho 83611
<input checked="" type="checkbox"/>	Hand Delivery	Facsimile: (208) 382-7184
<input type="checkbox"/>	Box	
<input checked="" type="checkbox"/>	U.S. Mail	Valley County District Court Reporter
<input type="checkbox"/>	Certified Mail	Janet French
<input type="checkbox"/>	Federal Express	200 W. Front Street
<input type="checkbox"/>	Facsimile	Boise, Idaho 83702-7300
<input type="checkbox"/>	Hand Delivery	
<input type="checkbox"/>	Box	

SIGNED: _____

Session: BOOMER081408
Session Date: 2008/08/14
Judge: Boomer, Henry
Reporter:

Division:
Session Time: 08:20

Courtroom: CR201

Clerk(s):
Deree, Debbie

State Attorneys:
Williams, Matt

Public Defender(s):
Wilcox, Todd

Prob. Officer(s):

Court interpreter(s):

Case ID: 0033

Case Number: CR-06-956
Plaintiff:
Plaintiff Attorney:
Defendant: Martin, Christopher
Co-Defendant(s):
Pers. Attorney:
State Attorney:
Public Defender:

2008/08/14

15:02:56 - Operator

Recording:

15:02:56 - New case

Martin, Christopher

15:03:19 - Judge: Boomer, Henry

calls case, atty present for the record.

15:03:30 - Pers. Attorney:

jd hallin filed an appeal ti the supreme court, previous ord
er stated all

15:04:16 - Pers. Attorney:

proceeding are stayed until appeals have run.

15:04:46 - Operator

Stop recording:

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

RECEIVED
IDAHO SUPREME COURT
COURT OF APPEALS
2008 SEP 24 AM 8:53

STATE OF IDAHO,
Plaintiff/Respondent,
-vs-
CHRISTOPHER P. MARTIN,
Defendant/Appellant.

SUPREME COURT NO. 35549
Dist. Court No. CR-2006-956*C
CLERK'S CERTIFICATE
OF APPEAL

Appeal From: Fourth Judicial District, Valley County
Thomas F. Neville, Presiding

Court Case No.: CR-2006-956*C

Order or Judgment Appealed From: Memorandum Decision & Order filed 6/18/08

Counsel for Plaintiff/Respondent: Idaho Attorney General's Office
Criminal Division
P. O. Box 83720
Boise, ID 83720-0101 PH: 208-334-2400

Counsel for Defendant/Appellant: Jonathon D. Hallin, Public Defender
P. O. Box 1067
McCall, ID 83638 PH: 208-634-5040

Appealed By: Defendant

Appealed Against: Plaintiff

Notice of Appeal Filed: July 30, 2008

Notice of Cross-Appeal Filed: No

Appellate Fee Paid: No--Indigent

Request for Additional Reporter's Transcript Filed: No

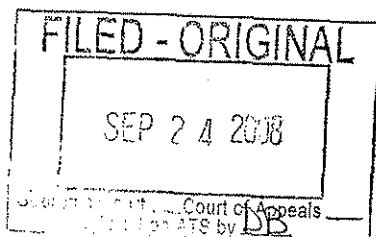
Request for Additional Record Filed: No

Name of Reporter:

Was Reporter's Transcript Requested: No

DATED this 23rd day of September, 2008.

ARCHIE N. BANBURY, CLERK



By:

[Signature]
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

STATE OF IDAHO,)	
	)	SUPREME COURT NO. 35549
Plaintiff/Respondent,)	
	)	Case No. CV-2006-956*C
-vs-)	
	)	CERTIFICATE OF EXHIBITS
CHRISTOPHER P. MARTIN,)	
)	
Defendant/Respondent.)	
)	
)	

I, ARCHIE N. BANBURY, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Valley, do hereby certify that the following is a list of the exhibits, offered or admitted and which have been lodged with the Supreme Court or retained as indicated:

<u>NO.</u>	<u>DESCRIPTION</u>	<u>OFFER/ADMIT</u>	<u>SENT/RETAINED</u>
		NONE	

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 3RD day of October, 2008.

ARCHIE N. BANBURY,
Clerk of the District Court

By: /s/ F. GARRISON

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

STATE OF IDAHO,)	
	)	SUPREME COURT NO. 35549
Plaintiff/Respondent.)	
	)	Dist. Court No. CR-2006-956*C
-vs-)	
	)	CLERK'S CERTIFICATE
CHRISTOPHER P. MARTIN,	)	TO RECORD
)	
Defendant/Appellant.)	
_____)	

I, ARCHIE N. BANBURY, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Valley, do hereby certify that the foregoing Record in this cause was compiled and bound under my direction and contains true and correct copies of all pleadings, documents and papers designated to be included under Rule 28, IAR, the Notice of Appeal, any Notice of Cross-Appeal, and any additional documents requested to be included.

I do further certify that all documents, x-rays, charts and pictures offered or admitted as exhibits in the above entitled cause, if any, will be duly lodged with the Clerk of the Supreme Court along with the Court Reporter's Transcript and Clerk's Record as required by Rule 31 of the Idaho Appellate Rules.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
the seal of the said Court this 3RD day of October, 2008.

ARCHIE N. BANBURY
Clerk of the District Court

By /s/ F. GARRISON
Deputy

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

STATE OF IDAHO,)	
	)	SUPREME COURT NO. 35549
Plaintiff/Respondent,)	
	)	Case No. CR-2006-956*C
-vs-)	
	)	CERTIFICATE OF SERVICE
CHRISTOPHER P. MARTIN,)	
)	
Defendant/Appellant.)	
_____)	

I, ARCHIE N. BANBURY, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Valley, do hereby certify that I have personally served or mailed, by United States Mail, postage prepaid, one copy of the Clerk's Record and any Reporter's Transcript to each of the Attorneys of Record in this cause as follows:

Attorney General's Office
Criminal Division
P. O. Box 83720
Boise, ID 83720-0101

Jonathon D. Hallin
Valley County Public Defender
P. O. Box 1067
McCall, ID 83638

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 7th day of October, 2008.

ARCHIE N. BANBURY, CLERK

By /s/ F. GARRISON
Deputy

Date: 9/30/2008

Fourth Judicial District Court - Valley County

User: GARRISON

Time: 05:18 PM

ROA Report

Page 1 of 2

Case: CR-2006-0000956-C Current Judge: Henry R. Boomer

Defendant: Martin, Christopher P.

State of Idaho vs. Christopher P. Martin

Date	Code	User		Judge
4/27/2006	NCRM	THOMPSON	New Case Filed - Misdemeanor	Henry R. Boomer
	PROS	THOMPSON	Prosecutor assigned Valley County Prosecutor	Henry R. Boomer
	AFPC	THOMPSON	Affidavit Of Probable Cause	Henry R. Boomer
	NOTC	THOMPSON	Receipt & Notice of Appearance Upon Posting Bond	Henry R. Boomer
	BNDS	THOMPSON	Bond Posted - Surety (Amount 500.00)	Henry R. Boomer
	HRSC	THOMPSON	Hearing Scheduled (Arraignment 05/09/2006 09:30 AM) DWP	Henry R. Boomer
5/9/2006	CNRI	THOMPSON	Constitutional Rights Warning	Henry R. Boomer
	ARRN	THOMPSON	Hearing result for Arraignment held on 05/09/2006 09:30 AM: Arraignment / First Appearance DWP	Henry R. Boomer
	ORPD	THOMPSON	Order Appointing Public Defender	Henry R. Boomer
	ORDR	THOMPSON	Order Setting Hearing/Trial	Henry R. Boomer
	HRSC	THOMPSON	Hearing Scheduled (Pretrial Conference 06/19/2006 11:00 AM)	Henry R. Boomer
5/16/2006	MISC	NICKI	States Notice of Response to Defendant's Request for Discovery	Henry R. Boomer
6/19/2006	GLTY	THOMPSON	Guilty Plea Or Admission Of Guilt - GT (I18-8001 Driving Without Privileges)	Henry R. Boomer
	CONT	THOMPSON	Continued (Sentencing 07/31/2006 11:00 AM)	Henry R. Boomer
	ORDR	THOMPSON	Order Setting Hearing/Trial	Henry R. Boomer
7/31/2006	MOTN	THOMPSON	Motion to Suppress	Henry R. Boomer
	MEMO	THOMPSON	Memorandum in Support of Defendant's Motion to Suppress	Henry R. Boomer
	HRVC	THOMPSON	Hearing result for Sentencing held on 07/31/2006 11:00 AM: Hearing Vacated	Henry R. Boomer
	HRSC	THOMPSON	Hearing Scheduled (Review 08/17/2006 11:45 AM)	Henry R. Boomer
8/22/2006	HRVC	THOMPSON	Hearing result for Review held on 08/17/2006 11:45 AM: Hearing Vacated	Henry R. Boomer
9/8/2006	HRSC	THOMPSON	Hearing Scheduled (Review 09/25/2006 09:00 AM)	Henry R. Boomer
9/25/2006	CONT	THOMPSON	Continued (Review 10/16/2006 09:00 AM)	Henry R. Boomer
10/16/2006	HRVC	THOMPSON	Hearing result for Review held on 10/16/2006 09:00 AM: Hearing Vacated Written Plea/Warrant	Henry R. Boomer
	HRSC	THOMPSON	Hearing Scheduled (Review 10/30/2006 08:00 AM)	Henry R. Boomer
10/20/2006	MISC	NICKI	Conditional Guilty Plea	Henry R. Boomer
10/30/2006	HRVC	THOMPSON	Hearing result for Review held on 10/30/2006 08:00 AM: Hearing Vacated Written Plea	Henry R. Boomer
	HRSC	THOMPSON	Hearing Scheduled (Plea and Sentencing 11/30/2006 09:00 AM)	Henry R. Boomer

State of Idaho vs. Christopher P. Martin

Date	Code	User		Judge
10/30/2006	ORDH	THOMPSON	Order Setting Hearing	Henry R. Boomer
11/30/2006	AMCO	THOMPSON	Amended Complaint Filed (I18-8001 {3} Driving Without Privileges (third Offense))	Henry R. Boomer
	CAGP	THOMPSON	Court Accepts Guilty Plea	Henry R. Boomer
	STAT	THOMPSON	STATUS CHANGED: closed pending clerk action	Henry R. Boomer
	NOSP	THOMPSON	Notification Of Subsequent Penalties	Henry R. Boomer
	DPHR	THOMPSON	Hearing result for Plea and Sentencing held on 11/30/2006 09:00 AM: Disposition With Hearing	Henry R. Boomer
	JDMT	THOMPSON	Judgment	Henry R. Boomer
	SNPF	THOMPSON	Sentenced To Pay Fine 737.50 charge: I18-8001 {3} Driving Without Privileges (third Offense)	Henry R. Boomer
	SNIC	THOMPSON	Sentenced To Incarceration (I18-8001 {3} Driving Without Privileges (third Offense)) Confinement terms: Jail: 1 year. Suspended jail: 11 months 5 days. Credited time: 1 day.	Henry R. Boomer
	PROB	THOMPSON	Probation Ordered (I18-8001 {3} Driving Without Privileges (third Offense)) Probation term: 1 year. (Unsupervised)	Henry R. Boomer
	JSUP	THOMPSON	Judgment Supplement	Henry R. Boomer
	OSDL	THOMPSON	Order Suspending Drivers License	Henry R. Boomer
	BNDE	THOMPSON	Surety Bond Exonerated (Amount 500.00)	Henry R. Boomer
12/1/2006	MOTN	DEREE	Motion to stay execution of sentence pending appeal	Henry R. Boomer
	NOTA	DEREE	NOTICE OF APPEAL	Henry R. Boomer
	APDC	GARRISON	Appeal Filed In District Court	Thomas F. Neville
12/6/2006	MISC	DEREE	Estimated cost of transcripts	Henry R. Boomer
1/11/2007	ORDR	THOMPSON	Order Staying Execution of Sentence Pending Appeal	Henry R. Boomer
4/25/2007	MISC	DEREE	Motion to suppress hearing transcripts	Henry R. Boomer
5/17/2007	NOTC	GARRISON	Notice of Lodging	Thomas F. Neville
6/7/2007	MISC	DEREE	Appellants Brief	Thomas F. Neville
6/18/2008	MISC	GARRISON	Memorandum Decision & Order	Thomas F. Neville
	RMAN	GARRISON	Remanded	Henry R. Boomer
6/19/2008	CHJG	GARRISON	Change Assigned Judge	Henry R. Boomer
7/15/2008	HRSC	GARRISON	Hearing Scheduled (Sentencing 08/14/2008 10:00 AM) Final Sentencing after Remand	Henry R. Boomer
		GARRISON	Notice Of Hearing	Henry R. Boomer
7/30/2008	NOTA	LIZ	NOTICE OF APPEAL	Henry R. Boomer
8/15/2008	INHJ	DEREE	Hearing result for Sentencing held on 08/14/2008 10:00 AM: Interim Hearing Held Final Sentencing will be after Remand	Henry R. Boomer